

TAX INCENTIVE REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: _____

Cosponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies, eliminates, and limits certain corporate and individual business-related income tax credits and modifies a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ reduces the rate of corporate and individual income tax credits for research activities;
- ▶ eliminates the corporate and individual motion picture and enterprise zone tax credits for a taxable year beginning on or after January 1, 2019;
- ▶ limits the Governor's Office of Economic Development's ability to enter new agreements or extend existing agreements for economic development tax credits;
- ▶ amends a definition;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease by a manufacturing facility, certain mining establishments, or a web search portal of materials that are



27 used or consumed in certain business activities;

28 ▶ repeals obsolete sales and use tax provisions; and

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 This bill provides retrospective operation.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **59-7-159**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

38 **59-7-612**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

39 **59-7-614.2**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

40 **59-7-614.5**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

41 **59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

42 **59-10-137**, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1

43 **59-10-1012**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

44 **59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

45 **59-10-1107**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

46 **59-10-1108**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

47 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

48 **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

49 **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268

50 **63I-2-259**, as last amended by Laws of Utah 2017, Chapter 181

51 **63I-2-263**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1

52 **63M-4-702**, as enacted by Laws of Utah 2017, Chapter 429

53 **63N-2-104**, as last amended by Laws of Utah 2017, Chapter 310

54 **63N-2-106**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

55 **63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

56 **63N-8-103**, as last amended by Laws of Utah 2016, Chapter 51

57 REPEALS:

58 [59-12-104.7](#), as enacted by Laws of Utah 2017, Chapter 268

59 [63N-1-302](#), as enacted by Laws of Utah 2017, Chapter 268

60

61 *Be it enacted by the Legislature of the state of Utah:*

62 Section 1. Section **59-7-159** is amended to read:

63 **59-7-159. Review of credits allowed under this chapter.**

64 (1) As used in this section, "committee" means the Revenue and Taxation Interim
65 Committee.

66 (2) (a) The committee shall review the tax credits described in this chapter as provided
67 in Subsection (3) and make recommendations concerning whether the tax credits should be
68 continued, modified, or repealed.

69 (b) In conducting the review required under Subsection (2)(a), the committee shall:

70 (i) schedule time on at least one committee agenda to conduct the review;

71 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
72 under review to provide testimony;

73 (iii) (A) invite the Governor's Office of Economic Development to present a summary
74 and analysis of the information for each tax credit regarding which the Governor's Office of
75 Economic Development is required to make a report under this chapter; and

76 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
77 analysis of the information for each tax credit regarding which the Office of the Legislative
78 Fiscal Analyst is required to make a report under this chapter;

79 (iv) ensure that the committee's recommendations described in this section include an
80 evaluation of:

81 (A) the cost of the tax credit to the state;

82 (B) the purpose and effectiveness of the tax credit; and

83 (C) the extent to which the state benefits from the tax credit; and

84 (v) undertake other review efforts as determined by the committee chairs or as
85 otherwise required by law.

86 (3) (a) On or before November 30, 2017, and every three years after 2017, the
87 committee shall conduct the review required under Subsection (2) of the tax credits allowed
88 under the following sections:

- 89 (i) Section 59-7-601;
- 90 (ii) Section 59-7-607;
- 91 (iii) Section 59-7-612; and
- 92 (iv) Section 59-7-614.1[~~;~~and].
- 93 [~~(v) Section 59-7-614.5;~~]

94 (b) On or before November 30, 2018, and every three years after 2018, the committee
 95 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 96 following sections:

- 97 (i) Section 59-7-609;
- 98 [~~(ii) Section 59-7-614.2;~~]
- 99 [~~(iii) Section 59-7-614.10;~~]
- 100 [~~(iv)~~] (ii) Section 59-7-617;
- 101 [~~(v)~~] (iii) Section 59-7-619; and
- 102 [~~(vi)~~] (iv) Section 59-7-620.

103 (c) On or before November 30, 2019, and every three years after 2019, the committee
 104 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 105 following sections:

- 106 [~~(i) Section 59-7-605;~~]
- 107 [~~(ii)~~] (i) Section 59-7-610;
- 108 [~~(iii)~~] (ii) Section 59-7-614;
- 109 [~~(iv)~~] (iii) Section 59-7-614.7;
- 110 [~~(v)~~] (iv) Section 59-7-614.8; and
- 111 [~~(vi)~~] (v) Section 59-7-618.

112 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 113 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 114 2017.

115 (ii) The committee shall complete a review described in this Subsection (3)(d) three
 116 years after the effective date of the tax credit and every three years after the initial review date.

117 Section 2. Section 59-7-612 is amended to read:

118 **59-7-612. Definitions -- Tax credits for research activities conducted in the state --**

119 **Carry forward -- Commission to report modification or repeal of certain federal**

120 **provisions -- Revenue and Taxation Interim Committee study.**

121 (1) (a) As used in this section:

122 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
 123 Revenue Code, except that the term includes only basic research conducted in this state.

124 (ii) "Qualified research" means the same as that term is defined in Section 41(d),
 125 Internal Revenue Code, except that the term includes only qualified research conducted in this
 126 state.

127 (iii) "Qualified research expenses" means the same as that term is defined in Section
 128 41(b), Internal Revenue Code, except that the term includes only:

129 (A) in-house research expenses incurred in this state; and

130 (B) contract research expenses incurred in this state.

131 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
 132 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
 133 Internal Revenue Code.

134 ~~[(+)]~~ (2) (a) A taxpayer meeting the requirements of this section may claim the
 135 following nonrefundable tax credits:

136 (i) a research tax credit of ~~[5%]~~ 2.5% of the taxpayer's qualified research expenses for
 137 the current taxable year that exceed the base amount provided for under Subsection ~~[(+)]~~ (5);

138 (ii) a tax credit for a payment to a qualified organization for basic research as provided
 139 in Section 41(e), Internal Revenue Code, of ~~[5%]~~ 2.5% for the current taxable year that exceed
 140 the base amount provided for under Subsection ~~[(+)]~~ (5); and

141 (iii) a tax credit equal to ~~[7.5%]~~ 4% of the taxpayer's qualified research expenses for
 142 the current taxable year.

143 (b) Subject to Subsection ~~[(+)]~~ (6), a taxpayer may claim a tax credit under:

144 (i) Subsection ~~[(+)]~~ (2)(a)(i) or ~~[(+)]~~ (a)(iii), for the taxable year for which the taxpayer
 145 incurs the qualified research expenses; or

146 (ii) Subsection ~~[(+)]~~ (2)(a)(ii), for the taxable year for which the taxpayer makes the
 147 payment to the qualified organization.

148 (c) The tax credits provided for in this section:

149 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),
 150 Internal Revenue Code~~[-]~~; and

151 (ii) do not terminate if a credit terminates under Section 41, Internal Revenue Code.

152 ~~[(2)] (3)~~ For purposes of claiming a tax credit under this section, a unitary group as
153 defined in Section ~~59-7-101~~ is considered to be one taxpayer.

154 ~~[(3)] (4)~~ Except as specifically provided for in this section:

155 (a) the tax credits authorized under Subsection ~~[(+)] (2)~~ shall be calculated as provided
156 in Section 41, Internal Revenue Code; and

157 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
158 the tax credits authorized under Subsection ~~[(+)] (2)~~.

159 ~~[(4)] (5)~~ For purposes of this section~~[(+)]~~, the base amount shall be calculated as
160 provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

161 ~~[(i)] (a)~~ the base amount does not include the calculation of the alternative incremental
162 credit provided for in Section 41(c)(4), Internal Revenue Code;

163 ~~[(ii)] (b)~~ a taxpayer's gross receipts include only those gross receipts attributable to
164 sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah
165 UDITPA Provisions; and

166 ~~[(iii)] (c)~~ notwithstanding Section 41(c), Internal Revenue Code, for purposes of
167 calculating the base amount, a taxpayer:

168 ~~[(A)] (i)~~ may elect to be treated as a start-up company as provided in Section
169 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section
170 41(c)(3)(B)(i)(I) or (II); and

171 ~~[(B)] (ii)~~ may not revoke an election to be treated as a start-up company under
172 Subsection ~~[(4)(a)(iii)(A);] (5)(c)(i)~~.

173 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
174 that the term includes only basic research conducted in this state;]~~

175 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
176 that the term includes only qualified research conducted in this state;]~~

177 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),
178 Internal Revenue Code, except that the term includes only:]~~

179 ~~[(i) in-house research expenses incurred in this state; and]~~

180 ~~[(ii) contract research expenses incurred in this state; and]~~

181 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~

182 ~~under Section 41, Internal Revenue Code.]~~

183 ~~[(5)]~~ (6) (a) If the amount of a tax credit claimed by a taxpayer under Subsection ~~[(1)]~~
184 ~~(2)(a)(i)~~ or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the
185 ~~[amount of the tax credit exceeding the tax liability]~~ taxpayer:

186 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the
187 taxpayer's tax liability for a period that does not exceed the next 14 taxable years; and

188 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the
189 taxpayer's tax liability to a taxable year preceding the current taxable year.

190 (b) A taxpayer may not carry forward the tax credit allowed by Subsection ~~[(1)]~~
191 ~~(2)(a)(iii)~~.

192 ~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
193 Act, the commission may make rules ~~[for purposes of this section]~~ prescribing a certification
194 process for qualified organizations to ensure that amounts paid to the qualified organizations
195 are for basic research conducted in this state.

196 ~~[(7)]~~ (8) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
197 the commission shall provide an electronic report of the modification or repeal to the Revenue
198 and Taxation Interim Committee within 60 days after the day on which the modification or
199 repeal becomes effective.

200 ~~[(8)]~~ (9) (a) The Revenue and Taxation Interim Committee shall review the tax credits
201 provided for in this section on or before October 1 of the year after the year in which the
202 commission reports under Subsection ~~[(7)]~~ (8) a modification or repeal of a provision of
203 Section 41, Internal Revenue Code.

204 (b) The review described in Subsection ~~[(8)]~~ (9)(a) is in addition to the review required
205 by Section 59-7-159.

206 ~~[(c) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee~~
207 ~~is not required to review the tax credits provided for in this section if the only modification to a~~
208 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~
209 ~~provided for in Section 41(h), Internal Revenue Code.]~~

210 ~~[(1)]~~ (c) The Revenue and Taxation Interim Committee shall address in a review under
211 this ~~[section]~~ Subsection (9):

212 (i) the cost of the tax credits provided for in this section;

213 (ii) the purpose and effectiveness of the tax credits provided for in this section;
214 (iii) whether the tax credits provided for in this section benefit the state; and
215 (iv) whether the tax credits provided for in this section should be~~[:]~~ continued,
216 modified, or repealed.

217 [~~(A) continued;~~]

218 [~~(B) modified; or~~]

219 [~~(C) repealed.~~]

220 [~~(e)~~] (d) If the Revenue and Taxation Interim Committee [~~reviews the tax credits~~
221 ~~provided for in this section, the committee~~] conducts a review under this Subsection (9), the
222 Revenue and Taxation Interim Committee shall issue a report of the Revenue and Taxation
223 Interim Committee's findings.

224 Section 3. Section **59-7-614.2** is amended to read:

225 **59-7-614.2. Refundable economic development tax credit.**

226 (1) As used in this section:

227 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
228 that term is defined in Section 63N-2-103.

229 (b) "Community reinvestment agency" means the same as that term is defined in
230 Section 17C-1-102.

231 (c) "Local government entity" means the same as that term is defined in Section
232 63N-2-103.

233 (d) "New incremental jobs" means the same as that term is defined in Section
234 63N-2-103.

235 (e) "New state revenues" means the same as that term is defined in Section 63N-2-103.

236 (f) "Office" means the Governor's Office of Economic Development created in Section
237 63N-1-201.

238 (2) [~~Subject to the other provisions of this section, a~~] A business entity, local
239 government entity, or community reinvestment agency may claim a refundable tax credit for
240 economic development as described in Section 63N-2-104.

241 (3) The tax credit under this section is the amount listed as the tax credit amount on the
242 tax credit certificate that the office issues to the business entity, local government entity, or
243 community reinvestment agency under Section 63N-2-105 for the taxable year.

244 (4) A community reinvestment agency may claim a tax credit under this section only if
245 a local government entity assigns the tax credit to the community reinvestment agency in
246 accordance with Section [63N-2-104](#).

247 (5) (a) In accordance with any rules prescribed by the commission under Subsection
248 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
249 section:

250 (i) a local government entity;

251 (ii) a community reinvestment agency; or

252 (iii) a business entity, if the amount of the tax credit exceeds the business entity's tax
253 liability for a taxable year.

254 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
255 commission may make rules providing procedures for making a refund to a business entity,
256 local government entity, or community reinvestment agency as required by Subsection (5)(a).

257 ~~[(6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
258 Committee shall study the tax credit allowed by this section and make recommendations
259 concerning whether the tax credit should be continued, modified, or repealed.]~~

260 ~~[(b) Except as provided in Subsection (6)(c), for purposes of the study required by this
261 Subsection (6), the office shall provide the following information, if available to the office, to
262 the Revenue and Taxation Interim Committee by electronic means:]~~

263 ~~[(i) the amount of tax credit that the office grants to each business entity, local
264 government entity, or community reinvestment agency for each calendar year;]~~

265 ~~[(ii) the criteria that the office uses in granting a tax credit;]~~

266 ~~[(iii) (A) for a business entity, the new state revenues generated by the business entity
267 for the calendar year; or]~~

268 ~~[(B) for a local government entity, regardless of whether the local government entity
269 assigns the tax credit in accordance with Section [63N-2-104](#), the new state revenues generated
270 as a result of a new commercial project within the local government entity for each calendar
271 year;]~~

272 ~~[(iv) estimates for each of the next three calendar years of the following:]~~

273 ~~[(A) the amount of tax credits that the office will grant;]~~

274 ~~[(B) the amount of new state revenues that will be generated; and]~~

275 ~~[(C) the number of new incremental jobs within the state that will be generated;]~~

276 ~~[(v) the information contained in the office's latest report under Section 63N-2-106;~~

277 and]

278 ~~[(vi) any other information that the Revenue and Taxation Interim Committee~~

279 requests.]

280 ~~[(c) (i) In providing the information described in Subsection (6)(b), the office shall~~

281 redact information that identifies a recipient of a tax credit under this section.]

282 ~~[(ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the~~

283 information described in Subsection (6)(b) might disclose the identity of a recipient of a tax

284 credit, the office may file a request with the Revenue and Taxation Interim Committee to

285 provide the information described in Subsection (6)(b) in the aggregate for all entities and

286 agencies that receive the tax credit under this section.]

287 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~

288 recommendations described in Subsection (6)(a) include an evaluation of:]

289 ~~[(i) the cost of the tax credit to the state;]~~

290 ~~[(ii) the purpose and effectiveness of the tax credit; and]~~

291 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

292 Section 4. Section 59-7-614.5 is amended to read:

293 **59-7-614.5. Refundable motion picture tax credit.**

294 (1) As used in this section:

295 (a) "Motion picture company" means a taxpayer that meets the definition of a "motion
296 picture company" under Section 63N-8-102.

297 (b) "Office" means the Governor's Office of Economic Development created in Section
298 63N-1-201.

299 (c) "State-approved production" means the same as that term is defined in Section
300 63N-8-102.

301 (2) For a taxable year beginning on or after January 1, 2009, and beginning on or
302 before December 31, 2018, a motion picture company may claim a refundable tax credit for a
303 state-approved production.

304 (3) The tax credit under this section is the amount listed as the tax credit amount on the
305 tax credit certificate that the office issues to a motion picture company under Section

306 ~~63N-8-103~~ for the taxable year.

307 ~~[(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
308 ~~(4)(b), the commission shall make a refund to a motion picture company that claims a tax~~
309 ~~credit under this section if the amount of the tax credit exceeds the motion picture company's~~
310 ~~tax liability for a taxable year.]~~

311 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
312 ~~the commission may make rules providing procedures for making a refund to a motion picture~~
313 ~~company as required by Subsection (4)(a).]~~

314 ~~[(5)(a) In accordance with Section 59-7-159, the Revenue and Taxation Interim~~
315 ~~Committee shall study the tax credit allowed by this section and make recommendations~~
316 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

317 ~~[(b)(i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required~~
318 ~~by this Subsection (5), the office shall provide the following information, if available to the~~
319 ~~office, to the Office of the Legislative Fiscal Analyst by electronic means:]~~

320 ~~[(A) the amount of tax credit that the office grants to each motion picture company for~~
321 ~~each calendar year;]~~

322 ~~[(B) estimates of the amount of tax credit that the office will grant for each of the next~~
323 ~~three calendar years;]~~

324 ~~[(C) the criteria that the office uses in granting the tax credit;]~~

325 ~~[(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion~~
326 ~~picture company for each calendar year;]~~

327 ~~[(E) the information contained in the office's latest report under Section 63N-8-105;~~
328 ~~and]~~

329 ~~[(F) any other information that the Office of the Legislative Fiscal Analyst requests.]~~

330 ~~[(ii)(A) In providing the information described in Subsection (5)(b)(i), the office shall~~
331 ~~redact information that identifies a recipient of a tax credit under this section.]~~

332 ~~[(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting~~
333 ~~the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a~~
334 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~
335 ~~provide the information described in Subsection (5)(b)(i) in the aggregate for all motion picture~~
336 ~~companies that receive the tax credit under this section.]~~

337 ~~[(c) As part of the study required by this Subsection (5), the Office of the Legislative~~
338 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~
339 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~
340 ~~office under Subsection (5)(b).]~~

341 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~
342 ~~recommendations described in Subsection (5)(a) include an evaluation of:]~~

343 ~~[(i) the cost of the tax credit to the state;]~~

344 ~~[(ii) the effectiveness of the tax credit; and]~~

345 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

346 Section 5. Section **59-7-614.10** is amended to read:

347 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

348 (1) As used in this section:

349 (a) "Business entity" means a corporation that meets the definition of "business entity"
350 as that term is defined in Section [63N-2-202](#).

351 (b) "Office" means the Governor's Office of Economic Development created in Section
352 [63N-1-201](#).

353 (2) Subject to the provisions of this section, a business entity may claim a
354 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

355 (3) The enterprise zone tax credit under this section is the amount listed as the tax
356 credit amount on the tax credit certificate that the office issues to the business entity for the
357 taxable year.

358 (4) (a) Except as provided in Subsection (4)(b), a business entity may only claim a tax
359 credit under this section for a taxable year that begins on or before December 31, 2018.

360 ~~[(4)]~~ (b) A business entity may carry forward a tax credit under this section for a period
361 that does not exceed the next three taxable years, if the amount of the tax credit exceeds the
362 business entity's tax liability under this chapter for that taxable year.

363 (5) A business entity may not claim or carry forward a tax credit available under this
364 ~~[part]~~ section for a taxable year during which the business entity has claimed the targeted
365 business income tax credit available under Section [63N-2-305](#).

366 ~~[(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim~~
367 ~~Committee shall study the tax credit allowed by this section and make recommendations~~

368 concerning whether the tax credit should be continued, modified, or repealed.]

369 [(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required
370 by this Subsection (6), the office shall provide by electronic means the following information
371 for each calendar year to the Office of the Legislative Fiscal Analyst:]

372 [(A) the amount of tax credits provided in each development zone;]

373 [(B) the number of new full-time employee positions reported to obtain tax credits in
374 each development zone;]

375 [(C) the amount of tax credits awarded for rehabilitating a building in each
376 development zone;]

377 [(D) the amount of tax credits awarded for investing in a plant, equipment, or other
378 depreciable property in each development zone;]

379 [(E) the information related to the tax credit contained in the office's latest report under
380 Section ~~63N-1-301~~; and]

381 [(F) any other information that the Office of the Legislative Fiscal Analyst requests.]

382 [(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall
383 redact information that identifies a recipient of a tax credit under this section.]

384 [(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting
385 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
386 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
387 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
388 zones that receive the tax credit under this section.]

389 [(c) As part of the study required by this Subsection (6), the Office of the Legislative
390 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
391 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
392 office under Subsection (6)(b).]

393 [(d) The Revenue and Taxation Interim Committee shall ensure that the
394 recommendations described in Subsection (6)(a) include an evaluation of:]

395 [(i) the cost of the tax credit to the state;]

396 [(ii) the purpose and effectiveness of the tax credit; and]

397 [(iii) the extent to which the state benefits from the tax credit.]

398 Section 6. Section **59-10-137** is amended to read:

399 **59-10-137. Review of credits allowed under this chapter.**

400 (1) As used in this section, "committee" means the Revenue and Taxation Interim
401 Committee.

402 (2) (a) The committee shall review the tax credits described in this chapter as provided
403 in Subsection (3) and make recommendations concerning whether the tax credits should be
404 continued, modified, or repealed.

405 (b) In conducting the review required under Subsection (2)(a), the committee shall:

406 (i) schedule time on at least one committee agenda to conduct the review;

407 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
408 under review to provide testimony;

409 (iii) (A) invite the Governor's Office of Economic Development to present a summary
410 and analysis of the information for each tax credit regarding which the Governor's Office of
411 Economic Development is required to make a report under this chapter; and

412 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
413 analysis of the information for each tax credit regarding which the Office of the Legislative
414 Fiscal Analyst is required to make a report under this chapter;

415 (iv) ensure that the committee's recommendations described in this section include an
416 evaluation of:

417 (A) the cost of the tax credit to the state;

418 (B) the purpose and effectiveness of the tax credit; and

419 (C) the extent to which the state benefits from the tax credit; and

420 (v) undertake other review efforts as determined by the committee chairs or as
421 otherwise required by law.

422 (3) (a) On or before November 30, 2017, and every three years after 2017, the
423 committee shall conduct the review required under Subsection (2) of the tax credits allowed
424 under the following sections:

425 (i) Section 59-10-1004;

426 (ii) Section 59-10-1010;

427 (iii) Section 59-10-1015;

428 (iv) Section 59-10-1025;

429 (v) Section 59-10-1027;

- 430 (vi) Section 59-10-1031;
 431 (vii) Section 59-10-1032;
 432 (viii) Section 59-10-1035;
 433 (ix) Section 59-10-1104; and
 434 (x) Section 59-10-1105~~[; and]~~.
 435 [~~(xi) Section 59-10-1108.~~]

436 (b) On or before November 30, 2018, and every three years after 2018, the committee
 437 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 438 following sections:

- 439 (i) Section 59-10-1005;
 440 (ii) Section 59-10-1006;
 441 (iii) Section 59-10-1012;
 442 [~~(iv) Section 59-10-1013;~~]
 443 [~~(v)~~] (iv) Section 59-10-1022;
 444 [~~(vi)~~] (v) Section 59-10-1023;
 445 [~~(vii)~~] (vi) Section 59-10-1028; and
 446 [~~(viii)~~] (vii) Section 59-10-1034~~[;]~~.
 447 [~~(ix) Section 59-10-1037; and]~~
 448 [~~(x) Section 59-10-1107.~~]

449 (c) On or before November 30, 2019, and every three years after 2019, the committee
 450 shall conduct the review required under Subsection (2) of the tax credits allowed under the
 451 following sections:

- 452 (i) Section 59-10-1007;
 453 [~~(ii) Section 59-10-1009;~~]
 454 [~~(iii)~~] (ii) Section 59-10-1014;
 455 [~~(iv)~~] (iii) Section 59-10-1017;
 456 [~~(v)~~] (iv) Section 59-10-1018;
 457 [~~(vi)~~] (v) Section 59-10-1019;
 458 [~~(vii)~~] (vi) Section 59-10-1024;
 459 [~~(viii)~~] (vii) Section 59-10-1029;
 460 [~~(ix)~~] (viii) Section 59-10-1030;

461 ~~[(x)]~~ (ix) Section 59-10-1033;
462 ~~[(xi)]~~ (x) Section 59-10-1036;
463 ~~[(xii)]~~ (xi) Section 59-10-1106; and
464 ~~[(xiii)]~~ (xii) Section 59-10-1111.

465 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
466 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
467 2017.

468 (ii) The committee shall complete a review described in this Subsection (3)(d) three
469 years after the effective date of the tax credit and every three years after the initial review date.

470 Section 7. Section 59-10-1012 is amended to read:

471 **59-10-1012. Definitions -- Tax credits for research activities conducted in the**
472 **state -- Carry forward -- Commission to report modification or repeal of certain federal**
473 **provisions -- Revenue and Taxation Interim Committee study.**

474 (1) (a) As used in this section:

475 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
476 Revenue Code, except that the term includes only basic research conducted in this state.

477 (ii) "Qualified research" means the same as that term is defined in Section 41(d),
478 Internal Revenue Code, except that the term includes only qualified research conducted in this
479 state.

480 (iii) "Qualified research expenses" means the same as that term is defined in Section
481 41(b), Internal Revenue Code, except that the term includes only:

482 (A) in-house research expenses incurred in this state; and

483 (B) contract research expenses incurred in this state.

484 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
485 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
486 Internal Revenue Code.

487 ~~[(H)]~~ (2) (a) A claimant, estate, or trust meeting the requirements of this section may
488 claim the following nonrefundable tax credits:

489 (i) a research tax credit of ~~[5%]~~ 2.5% of the claimant's, estate's, or trust's qualified
490 research expenses for the current taxable year that exceed the base amount provided for under
491 Subsection ~~[(3)]~~ (4);

492 (ii) a tax credit for a payment to a qualified organization for basic research as provided
493 in Section 41(e), Internal Revenue Code of [~~5%~~] 2.5% for the current taxable year that exceed
494 the base amount provided for under Subsection [~~(3)~~] (4); and

495 (iii) a tax credit equal to [~~7.5%~~] 4% of the claimant's, estate's, or trust's qualified
496 research expenses for the current taxable year.

497 (b) Subject to Subsection [~~(4)~~] (5), a claimant, estate, or trust may claim a tax credit
498 under:

499 (i) Subsection [~~(1)~~] (2)(a)(i) or [~~(1)~~]~~(a)~~(iii), for the taxable year for which the claimant,
500 estate, or trust incurs the qualified research expenses; or

501 (ii) Subsection [~~(1)~~] (2)(a)(ii), for the taxable year for which the claimant, estate, or
502 trust makes the payment to the qualified organization.

503 (c) The tax credits provided for in this section:

504 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),
505 Internal Revenue Code~~[-]; and~~

506 (ii) are not terminated if a credit terminates under Section 41, Internal Revenue Code.

507 [~~(2)~~] (3) Except as specifically provided for in this section:

508 (a) the tax credits authorized under Subsection [~~(1)~~] (2) shall be calculated as provided
509 in Section 41, Internal Revenue Code; and

510 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
511 the tax credits authorized under Subsection [~~(1)~~] (2).

512 [~~(3)~~] (4) For purposes of this section~~[-(a)]~~, the base amount shall be calculated as
513 provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

514 [~~(1)~~] (a) the base amount does not include the calculation of the alternative incremental
515 credit provided for in Section 41(c)(4), Internal Revenue Code;

516 [~~(1)~~] (b) a claimant's, estate's, or trust's gross receipts include only those gross receipts
517 attributable to sources within this state as provided in Section [59-10-118](#); and

518 [~~(1)~~]~~(c)~~ (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of
519 calculating the base amount, a claimant, estate, or trust:

520 [~~(A)~~] (i) may elect to be treated as a start-up company as provided in Section
521 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets
522 the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

523 ~~[(B)]~~ (ii) may not revoke an election to be treated as a start-up company under
524 Subsection ~~[(3)(a)(iii)(A); (4)(c)(i)]~~.

525 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except~~
526 ~~that the term includes only basic research conducted in this state;]~~

527 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~
528 ~~that the term includes only qualified research conducted in this state;]~~

529 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),~~
530 ~~Internal Revenue Code, except that the term includes only:]~~

531 ~~[(i) in-house research expenses incurred in this state; and]~~

532 ~~[(ii) contract research expenses incurred in this state; and]~~

533 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates~~
534 ~~under Section 41, Internal Revenue Code.]~~

535 ~~[(4)]~~ (5) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
536 Subsection ~~[(1)]~~ (2)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
537 chapter for a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ taxpayer:

538 (i) may ~~[be carried]~~ carry forward the amount of the tax credit that exceeds the
539 claimant's, estate's, or trust's tax liability for a period that does not exceed the next 14 taxable
540 years; and

541 (ii) may not ~~[be carried]~~ carry back the amount of the tax credit that exceeds the
542 claimant's, estate's, or trust's tax liability to a taxable year preceding the current taxable year.

543 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
544 Subsection ~~[(1)]~~ (2)(a)(iii).

545 ~~[(5)]~~ (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
546 Act, the commission may make rules ~~[for purposes of this section]~~ prescribing a certification
547 process for qualified organizations to ensure that amounts paid to the qualified organizations
548 are for basic research conducted in this state.

549 ~~[(6)]~~ (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
550 the commission shall report the modification or repeal by electronic means to the Revenue and
551 Taxation Interim Committee within 60 days after the day on which the modification or repeal
552 becomes effective.

553 ~~[(7)]~~ (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits

554 provided for in this section on or before October 1 of the year after the year in which the
 555 commission reports under Subsection ~~[(6)]~~ (7) a modification or repeal of a provision of
 556 Section 41, Internal Revenue Code.

557 (b) The review described in Subsection ~~[(7)]~~ (8)(a) is in addition to the review required
 558 by Section 59-10-137.

559 ~~[(c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee~~
 560 ~~is not required to review the tax credits provided for in this section if the only modification to a~~
 561 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~
 562 ~~provided for in Section 41(h), Internal Revenue Code.]~~

563 ~~[(d)]~~ (c) The Revenue and Taxation Interim Committee shall address in a review under
 564 this ~~[section]~~ Subsection (8):

565 (i) the cost of the tax credits provided for in this section;

566 (ii) the purpose and effectiveness of the tax credits provided for in this section;

567 (iii) whether the tax credits provided for in this section benefit the state; and

568 (iv) whether the tax credits provided for in this section should be~~[:]~~ continued,
 569 modified, or repealed.

570 ~~[(A) continued;]~~

571 ~~[(B) modified; or]~~

572 ~~[(C) repealed.]~~

573 ~~[(e)]~~ (d) If the Revenue and Taxation Interim Committee ~~[reviews the tax credits~~
 574 ~~provided for in this section, the committee]~~ conducts a review under this Subsection (8), the
 575 Revenue and Taxation Interim Committee shall issue a report of the Revenue and Taxation
 576 Interim Committee's findings.

577 Section 8. Section 59-10-1037 is amended to read:

578 **59-10-1037. Nonrefundable enterprise zone tax credit.**

579 (1) As used in this section:

580 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
 581 "business entity" as that term is defined in Section 63N-2-202.

582 (b) "Office" means the Governor's Office of Economic Development created in Section
 583 63N-1-201.

584 (2) Subject to the provisions of this section, a business entity may claim a

585 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

586 (3) The enterprise zone tax credit under this section is the amount listed as the tax
587 credit amount on the tax credit certificate that the office issues to the business entity for the
588 taxable year.

589 (4) (a) Except as provided in Subsection (4)(b), a business entity may only claim a tax
590 credit under this section for a taxable year that begins on or before December 31, 2018.

591 ~~[(4)]~~ (b) A business entity may carry forward a tax credit under this section for a period
592 that does not exceed the next three taxable years, if the amount of the tax credit exceeds the
593 business entity's tax liability under this chapter for that taxable year.

594 (5) A business entity may not claim or carry forward a tax credit available under this
595 ~~[part]~~ section for a taxable year during which the business entity has claimed the targeted
596 business income tax credit available under Section [63N-2-305](#).

597 ~~[(6) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim~~
598 ~~Committee shall study the tax credit allowed by this section and make recommendations~~
599 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

600 ~~[(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required~~
601 ~~by this Subsection (6), the office shall provide by electronic means the following information,~~
602 ~~if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:]~~

603 ~~[(A) the amount of tax credits provided in each development zone;]~~

604 ~~[(B) the number of new full-time employee positions reported to obtain tax credits in~~
605 ~~each development zone;]~~

606 ~~[(C) the amount of tax credits awarded for rehabilitating a building in each~~
607 ~~development zone;]~~

608 ~~[(D) the amount of tax credits awarded for investing in a plant, equipment, or other~~
609 ~~depreciable property in each development zone;]~~

610 ~~[(E) the information related to the tax credit contained in the office's latest report under~~
611 ~~Section [63N-1-301](#); and]~~

612 ~~[(F) other information that the Office of the Legislative Fiscal Analyst requests.]~~

613 ~~[(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall~~
614 ~~redact information that identifies a recipient of a tax credit under this section.]~~

615 ~~[(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting~~

616 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a
 617 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
 618 provide the information described in Subsection (6)(b)(i) in the aggregate for all development
 619 zones that receive the tax credit under this section.]

620 [~~(c) As part of the study required by this Subsection (6), the Office of the Legislative~~
 621 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~
 622 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~
 623 ~~office under Subsection (6)(b).]~~

624 [~~(d) The Revenue and Taxation Interim Committee shall ensure that the~~
 625 ~~recommendations described in Subsection (6)(a) include an evaluation of:]~~

626 [~~(i) the cost of the tax credit to the state;]~~

627 [~~(ii) the purpose and effectiveness of the tax credit; and]~~

628 [~~(iii) the extent to which the state benefits from the tax credit.]~~

629 Section 9. Section **59-10-1107** is amended to read:

630 **59-10-1107. Refundable economic development tax credit.**

631 (1) As used in this section:

632 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
 633 "business entity" as that term is defined in Section 63N-2-103.

634 (b) "New incremental jobs" means the same as that term is defined in Section
 635 63N-2-103.

636 (c) "New state revenues" means the same as that term is defined in Section 63N-2-103.

637 (d) "Office" means the Governor's Office of Economic Development created in Section
 638 63N-1-201.

639 (2) [~~Subject to the other provisions of this section, a~~] A business entity may claim a
 640 refundable tax credit for economic development as described in Section 63N-2-104.

641 (3) The tax credit under this section is the amount listed as the tax credit amount on the
 642 tax credit certificate that the office issues to the business entity under Section 63N-2-105 for
 643 the taxable year.

644 [~~(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
 645 ~~(4)(b), the commission shall make a refund to a business entity that claims a tax credit under~~
 646 ~~this section if the amount of the tax credit exceeds the business entity's tax liability for a~~

647 taxable year.]

648 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
649 ~~the commission may make rules providing procedures for making a refund to a business entity~~
650 ~~as required by Subsection (4)(a).]~~

651 ~~[(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim~~
652 ~~Committee shall study the tax credit allowed by this section and make recommendations~~
653 ~~concerning whether the tax credit should be continued, modified, or repealed.]]~~

654 ~~[(b) Except as provided in Subsection (5)(c), for purposes of the study required by this~~
655 ~~Subsection (5), the office shall provide the following information, if available to the office, to~~
656 ~~the Revenue and Taxation Interim Committee by electronic means:]]~~

657 ~~[(i) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~

658 ~~[(ii) the criteria the office uses in granting a tax credit;]~~

659 ~~[(iii) the new state revenues generated by each taxpayer for each calendar year;]~~

660 ~~[(iv) estimates for each of the next three calendar years of the following:]~~

661 ~~[(A) the amount of tax credits that the office will grant;]~~

662 ~~[(B) the amount of new state revenues that will be generated; and]~~

663 ~~[(C) the number of new incremental jobs within the state that will be generated;]~~

664 ~~[(v) the information contained in the office's latest report under Section 63N-2-106;~~

665 ~~and]~~

666 ~~[(vi) any other information that the Revenue and Taxation Interim Committee~~
667 ~~requests.]]~~

668 ~~[(c) (i) In providing the information described in Subsection (5)(b), the office shall~~
669 ~~redact information that identifies a recipient of a tax credit under this section.]]~~

670 ~~[(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the~~
671 ~~information described in Subsection (5)(b) might disclose the identity of a recipient of a tax~~
672 ~~credit, the office may file a request with the Revenue and Taxation Interim Committee to~~
673 ~~provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that~~
674 ~~receive the tax credit under this section.]]~~

675 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~
676 ~~recommendations described in Subsection (5)(a) include an evaluation of:]]~~

677 ~~[(i) the cost of the tax credit to the state;]~~

678 ~~[(ii) the purpose and effectiveness of the tax credit, and]~~

679 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

680 Section 10. Section **59-10-1108** is amended to read:

681 **59-10-1108. Refundable motion picture tax credit.**

682 (1) As used in this section:

683 (a) "Motion picture company" means a claimant, estate, or trust that meets the
684 definition of a "motion picture company" under Section [63N-8-102](#).

685 (b) "Office" means the Governor's Office of Economic Development created in Section
686 [63N-1-201](#).

687 (c) "State-approved production" means the same as that term is defined in Section
688 [63N-8-102](#).

689 (2) For a taxable year beginning on or after January 1, 2009, and beginning on or
690 before December 31, 2018, a motion picture company may claim a refundable tax credit for a
691 state-approved production.

692 (3) The tax credit under this section is the amount listed as the tax credit amount on the
693 tax credit certificate that the office issues to a motion picture company under Section
694 [63N-8-103](#) for the taxable year.

695 ~~[(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
696 ~~(4)(b), the commission shall make a refund to a motion picture company that claims a tax~~
697 ~~credit under this section if the amount of the tax credit exceeds the motion picture company's~~
698 ~~tax liability for the taxable year.]~~

699 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
700 ~~the commission may make rules providing procedures for making a refund to a motion picture~~
701 ~~company as required by Subsection (4)(a).]~~

702 ~~[(5)(a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim~~
703 ~~Committee shall study the tax credit allowed by this section and make recommendations~~
704 ~~concerning whether the tax credit should be continued, modified, or repealed.]~~

705 ~~[(b)(i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required~~
706 ~~by this Subsection (5), the office shall provide the following information, if available to the~~
707 ~~office, to the Office of the Legislative Fiscal Analyst by electronic means:]~~

708 ~~[(A) the amount of tax credit the office grants to each taxpayer for each calendar year;]~~

709 ~~[(B) estimates of the amount of tax credit that the office will grant for each of the next~~
710 ~~three calendar years;]~~

711 ~~[(C) the criteria the office uses in granting a tax credit;]~~

712 ~~[(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion~~
713 ~~picture company for each calendar year;]~~

714 ~~[(E) the information contained in the office's latest report under Section 63N-8-105;~~
715 ~~and]~~

716 ~~[(F) any other information that the Office of the Legislative Fiscal Analyst requests.]~~

717 ~~[(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall~~
718 ~~redact information that identifies a recipient of a tax credit under this section.]~~

719 ~~[(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting~~
720 ~~the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a~~
721 ~~tax credit, the office may file a request with the Revenue and Taxation Interim Committee to~~
722 ~~provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that~~
723 ~~receive the tax credit under this section.]~~

724 ~~[(c) As part of the study required by this Subsection (5), the Office of the Legislative~~
725 ~~Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and~~
726 ~~analysis of the information provided to the Office of the Legislative Fiscal Analyst by the~~
727 ~~office under Subsection (5)(b).]~~

728 ~~[(d) The Revenue and Taxation Interim Committee shall ensure that the~~
729 ~~recommendations described in Subsection (5)(a) include an evaluation of:]~~

730 ~~[(i) the cost of the tax credit to the state;]~~

731 ~~[(ii) the effectiveness of the tax credit, and]~~

732 ~~[(iii) the extent to which the state benefits from the tax credit.]~~

733 Section 11. Section **59-12-102** is amended to read:

734 **59-12-102. Definitions.**

735 As used in this chapter:

736 (1) "800 service" means a telecommunications service that:

737 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

738 (b) is typically marketed:

739 (i) under the name 800 toll-free calling;

- 740 (ii) under the name 855 toll-free calling;
- 741 (iii) under the name 866 toll-free calling;
- 742 (iv) under the name 877 toll-free calling;
- 743 (v) under the name 888 toll-free calling; or
- 744 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
745 Federal Communications Commission.
- 746 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 747 (i) a subscriber purchases;
- 748 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
749 the subscriber's:
- 750 (A) prerecorded announcement; or
- 751 (B) live service; and
- 752 (iii) is typically marketed:
- 753 (A) under the name 900 service; or
- 754 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
755 Communications Commission.
- 756 (b) "900 service" does not include a charge for:
- 757 (i) a collection service a seller of a telecommunications service provides to a
758 subscriber; or
- 759 (ii) the following a subscriber sells to the subscriber's customer:
- 760 (A) a product; or
- 761 (B) a service.
- 762 (3) (a) "Admission or user fees" includes season passes.
- 763 (b) "Admission or user fees" does not include annual membership dues to private
764 organizations.
- 765 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
766 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
767 Agreement after November 12, 2002.
- 768 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 769 (a) listed under Subsection (6); and
- 770 (b) that are imposed within a local taxing jurisdiction.

- 771 (6) "Agreement sales and use tax" means a tax imposed under:
- 772 (a) Subsection 59-12-103(2)(a)(i)(A);
- 773 (b) Subsection 59-12-103(2)(b)(i);
- 774 (c) Subsection 59-12-103(2)(c)(i);
- 775 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 776 (e) Section 59-12-204;
- 777 (f) Section 59-12-401;
- 778 (g) Section 59-12-402;
- 779 (h) Section 59-12-402.1;
- 780 (i) Section 59-12-703;
- 781 (j) Section 59-12-802;
- 782 (k) Section 59-12-804;
- 783 (l) Section 59-12-1102;
- 784 (m) Section 59-12-1302;
- 785 (n) Section 59-12-1402;
- 786 (o) Section 59-12-1802;
- 787 (p) Section 59-12-2003;
- 788 (q) Section 59-12-2103;
- 789 (r) Section 59-12-2213;
- 790 (s) Section 59-12-2214;
- 791 (t) Section 59-12-2215;
- 792 (u) Section 59-12-2216;
- 793 (v) Section 59-12-2217;
- 794 (w) Section 59-12-2218; or
- 795 (x) Section 59-12-2219.
- 796 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 797 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 798 (a) except for:
- 799 (i) an airline as defined in Section 59-2-102; or
- 800 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 801 includes a corporation that is qualified to do business but is not otherwise doing business in the

802 state, of an airline; and

803 (b) that has the workers, expertise, and facilities to perform the following, regardless of
804 whether the business entity performs the following in this state:

805 (i) check, diagnose, overhaul, and repair:

806 (A) an onboard system of a fixed wing turbine powered aircraft; and

807 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

808 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
809 engine;

810 (iii) perform at least the following maintenance on a fixed wing turbine powered
811 aircraft:

812 (A) an inspection;

813 (B) a repair, including a structural repair or modification;

814 (C) changing landing gear; and

815 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

816 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
817 completely apply new paint to the fixed wing turbine powered aircraft; and

818 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
819 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
820 authority that certifies the fixed wing turbine powered aircraft.

821 (9) "Alcoholic beverage" means a beverage that:

822 (a) is suitable for human consumption; and

823 (b) contains .5% or more alcohol by volume.

824 (10) "Alternative energy" means:

825 (a) biomass energy;

826 (b) geothermal energy;

827 (c) hydroelectric energy;

828 (d) solar energy;

829 (e) wind energy; or

830 (f) energy that is derived from:

831 (i) coal-to-liquids;

832 (ii) nuclear fuel;

- 833 (iii) oil-impregnated diatomaceous earth;
- 834 (iv) oil sands;
- 835 (v) oil shale;
- 836 (vi) petroleum coke; or
- 837 (vii) waste heat from:
 - 838 (A) an industrial facility; or
 - 839 (B) a power station in which an electric generator is driven through a process in which
 - 840 water is heated, turns into steam, and spins a steam turbine.

841 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
842 facility" means a facility that:

- 843 (i) uses alternative energy to produce electricity; and
- 844 (ii) has a production capacity of two megawatts or greater.

845 (b) A facility is an alternative energy electricity production facility regardless of
846 whether the facility is:

- 847 (i) connected to an electric grid; or
- 848 (ii) located on the premises of an electricity consumer.

849 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
850 provision of telecommunications service.

851 (b) "Ancillary service" includes:

- 852 (i) a conference bridging service;
- 853 (ii) a detailed communications billing service;
- 854 (iii) directory assistance;
- 855 (iv) a vertical service; or
- 856 (v) a voice mail service.

857 (13) "Area agency on aging" means the same as that term is defined in Section
858 [62A-3-101](#).

859 (14) "Assisted amusement device" means an amusement device, skill device, or ride
860 device that is started and stopped by an individual:

- 861 (a) who is not the purchaser or renter of the right to use or operate the amusement
862 device, skill device, or ride device; and
- 863 (b) at the direction of the seller of the right to use the amusement device, skill device,

864 or ride device.

865 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
866 washing of tangible personal property if the cleaning or washing labor is primarily performed
867 by an individual:

868 (a) who is not the purchaser of the cleaning or washing of the tangible personal
869 property; and

870 (b) at the direction of the seller of the cleaning or washing of the tangible personal
871 property.

872 (16) "Authorized carrier" means:

873 (a) in the case of vehicles operated over public highways, the holder of credentials
874 indicating that the vehicle is or will be operated pursuant to both the International Registration
875 Plan and the International Fuel Tax Agreement;

876 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
877 certificate or air carrier's operating certificate; or

878 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
879 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
880 stock in more than one state.

881 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
882 following that is used as the primary source of energy to produce fuel or electricity:

883 (i) material from a plant or tree; or

884 (ii) other organic matter that is available on a renewable basis, including:

885 (A) slash and brush from forests and woodlands;

886 (B) animal waste;

887 (C) waste vegetable oil;

888 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
889 wastewater residuals, or through the conversion of a waste material through a nonincineration,
890 thermal conversion process;

891 (E) aquatic plants; and

892 (F) agricultural products.

893 (b) "Biomass energy" does not include:

894 (i) black liquor; or

- 895 (ii) treated woods.
- 896 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 897 property, products, or services if the tangible personal property, products, or services are:
- 898 (i) distinct and identifiable; and
- 899 (ii) sold for one nonitemized price.
- 900 (b) "Bundled transaction" does not include:
- 901 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 902 the basis of the selection by the purchaser of the items of tangible personal property included in
- 903 the transaction;
- 904 (ii) the sale of real property;
- 905 (iii) the sale of services to real property;
- 906 (iv) the retail sale of tangible personal property and a service if:
- 907 (A) the tangible personal property:
- 908 (I) is essential to the use of the service; and
- 909 (II) is provided exclusively in connection with the service; and
- 910 (B) the service is the true object of the transaction;
- 911 (v) the retail sale of two services if:
- 912 (A) one service is provided that is essential to the use or receipt of a second service;
- 913 (B) the first service is provided exclusively in connection with the second service; and
- 914 (C) the second service is the true object of the transaction;
- 915 (vi) a transaction that includes tangible personal property or a product subject to
- 916 taxation under this chapter and tangible personal property or a product that is not subject to
- 917 taxation under this chapter if the:
- 918 (A) seller's purchase price of the tangible personal property or product subject to
- 919 taxation under this chapter is de minimis; or
- 920 (B) seller's sales price of the tangible personal property or product subject to taxation
- 921 under this chapter is de minimis; and
- 922 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 923 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 924 (A) that retail sale includes:
- 925 (I) food and food ingredients;

- 926 (II) a drug;
- 927 (III) durable medical equipment;
- 928 (IV) mobility enhancing equipment;
- 929 (V) an over-the-counter drug;
- 930 (VI) a prosthetic device; or
- 931 (VII) a medical supply; and
- 932 (B) subject to Subsection (18)(f):
- 933 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 934 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 935 (II) the seller's sales price of the tangible personal property subject to taxation under
- 936 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 937 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 938 service that is distinct and identifiable does not include:
- 939 (A) packaging that:
- 940 (I) accompanies the sale of the tangible personal property, product, or service; and
- 941 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 942 service;
- 943 (B) tangible personal property, a product, or a service provided free of charge with the
- 944 purchase of another item of tangible personal property, a product, or a service; or
- 945 (C) an item of tangible personal property, a product, or a service included in the
- 946 definition of "purchase price."
- 947 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 948 product, or a service is provided free of charge with the purchase of another item of tangible
- 949 personal property, a product, or a service if the sales price of the purchased item of tangible
- 950 personal property, product, or service does not vary depending on the inclusion of the tangible
- 951 personal property, product, or service provided free of charge.
- 952 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 953 does not include a price that is separately identified by tangible personal property, product, or
- 954 service on the following, regardless of whether the following is in paper format or electronic
- 955 format:
- 956 (A) a binding sales document; or

- 957 (B) another supporting sales-related document that is available to a purchaser.
- 958 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 959 supporting sales-related document that is available to a purchaser includes:
- 960 (A) a bill of sale;
- 961 (B) a contract;
- 962 (C) an invoice;
- 963 (D) a lease agreement;
- 964 (E) a periodic notice of rates and services;
- 965 (F) a price list;
- 966 (G) a rate card;
- 967 (H) a receipt; or
- 968 (I) a service agreement.
- 969 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 970 property or a product subject to taxation under this chapter is de minimis if:
- 971 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 972 less of the seller's total purchase price of the bundled transaction; or
- 973 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 974 the seller's total sales price of the bundled transaction.
- 975 (ii) For purposes of Subsection (18)(b)(vi), a seller:
- 976 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 977 purchase price or sales price of the tangible personal property or product subject to taxation
- 978 under this chapter is de minimis; and
- 979 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 980 to determine if the purchase price or sales price of the tangible personal property or product
- 981 subject to taxation under this chapter is de minimis.
- 982 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 983 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 984 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 985 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 986 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
- 987 price of that retail sale.

988 (19) "Certified automated system" means software certified by the governing board of
989 the agreement that:

990 (a) calculates the agreement sales and use tax imposed within a local taxing
991 jurisdiction:

992 (i) on a transaction; and

993 (ii) in the states that are members of the agreement;

994 (b) determines the amount of agreement sales and use tax to remit to a state that is a
995 member of the agreement; and

996 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

997 (20) "Certified service provider" means an agent certified:

998 (a) by the governing board of the agreement; and

999 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1000 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1001 own purchases.

1002 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1003 suitable for general use.

1004 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1005 commission shall make rules:

1006 (i) listing the items that constitute "clothing"; and

1007 (ii) that are consistent with the list of items that constitute "clothing" under the
1008 agreement.

1009 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1010 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1011 fuels that does not constitute industrial use under Subsection (56) or residential use under
1012 Subsection (106).

1013 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1014 transporting passengers, freight, merchandise, or other property for hire within this state.

1015 (b) (i) "Common carrier" does not include a person who, at the time the person is
1016 traveling to or from that person's place of employment, transports a passenger to or from the
1017 passenger's place of employment.

1018 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,

1019 Utah Administrative Rulemaking Act, the commission may make rules defining what
1020 constitutes a person's place of employment.

1021 (c) "Common carrier" does not include a person that provides transportation network
1022 services, as defined in Section [13-51-102](#).

1023 (25) "Component part" includes:

1024 (a) poultry, dairy, and other livestock feed, and their components;

1025 (b) baling ties and twine used in the baling of hay and straw;

1026 (c) fuel used for providing temperature control of orchards and commercial
1027 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1028 off-highway type farm machinery; and

1029 (d) feed, seeds, and seedlings.

1030 (26) "Computer" means an electronic device that accepts information:

1031 (a) (i) in digital form; or

1032 (ii) in a form similar to digital form; and

1033 (b) manipulates that information for a result based on a sequence of instructions.

1034 (27) "Computer software" means a set of coded instructions designed to cause:

1035 (a) a computer to perform a task; or

1036 (b) automatic data processing equipment to perform a task.

1037 (28) "Computer software maintenance contract" means a contract that obligates a seller
1038 of computer software to provide a customer with:

1039 (a) future updates or upgrades to computer software;

1040 (b) support services with respect to computer software; or

1041 (c) a combination of Subsections (28)(a) and (b).

1042 (29) (a) "Conference bridging service" means an ancillary service that links two or
1043 more participants of an audio conference call or video conference call.

1044 (b) "Conference bridging service" may include providing a telephone number as part of
1045 the ancillary service described in Subsection (29)(a).

1046 (c) "Conference bridging service" does not include a telecommunications service used
1047 to reach the ancillary service described in Subsection (29)(a).

1048 (30) "Construction materials" means any tangible personal property that will be
1049 converted into real property.

1050 (31) "Delivered electronically" means delivered to a purchaser by means other than
1051 tangible storage media.

1052 (32) (a) "Delivery charge" means a charge:

1053 (i) by a seller of:

1054 (A) tangible personal property;

1055 (B) a product transferred electronically; or

1056 (C) services; and

1057 (ii) for preparation and delivery of the tangible personal property, product transferred
1058 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1059 purchaser.

1060 (b) "Delivery charge" includes a charge for the following:

1061 (i) transportation;

1062 (ii) shipping;

1063 (iii) postage;

1064 (iv) handling;

1065 (v) crating; or

1066 (vi) packing.

1067 (33) "Detailed telecommunications billing service" means an ancillary service of
1068 separately stating information pertaining to individual calls on a customer's billing statement.

1069 (34) "Dietary supplement" means a product, other than tobacco, that:

1070 (a) is intended to supplement the diet;

1071 (b) contains one or more of the following dietary ingredients:

1072 (i) a vitamin;

1073 (ii) a mineral;

1074 (iii) an herb or other botanical;

1075 (iv) an amino acid;

1076 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1077 dietary intake; or

1078 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1079 described in Subsections (34)(b)(i) through (v);

1080 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- 1081 (A) tablet form;
- 1082 (B) capsule form;
- 1083 (C) powder form;
- 1084 (D) softgel form;
- 1085 (E) gelcap form; or
- 1086 (F) liquid form; or
- 1087 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1088 (34)(c)(i)(A) through (F), is not represented:
- 1089 (A) as conventional food; and
- 1090 (B) for use as a sole item of:
- 1091 (I) a meal; or
- 1092 (II) the diet; and
- 1093 (d) is required to be labeled as a dietary supplement:
- 1094 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1095 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1096 (35) "Digital audio-visual work" means a series of related images which, when shown
- 1097 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 1098 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1099 musical, spoken, or other sounds.
- 1100 (b) "Digital audio work" includes a ringtone.
- 1101 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 1102 sense as a book.
- 1103 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 1104 mail or other delivery service:
- 1105 (i) to:
- 1106 (A) a mass audience; or
- 1107 (B) addressees on a mailing list provided:
- 1108 (I) by a purchaser of the mailing list; or
- 1109 (II) at the discretion of the purchaser of the mailing list; and
- 1110 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1111 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

1112 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1113 (c) "Direct mail" does not include multiple items of printed material delivered to a
1114 single address.

1115 (39) "Directory assistance" means an ancillary service of providing:

1116 (a) address information; or

1117 (b) telephone number information.

1118 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
1119 or supplies that:

1120 (i) cannot withstand repeated use; and

1121 (ii) are purchased by, for, or on behalf of a person other than:

1122 (A) a health care facility as defined in Section 26-21-2;

1123 (B) a health care provider as defined in Section 78B-3-403;

1124 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

1125 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

1126 (b) "Disposable home medical equipment or supplies" does not include:

1127 (i) a drug;

1128 (ii) durable medical equipment;

1129 (iii) a hearing aid;

1130 (iv) a hearing aid accessory;

1131 (v) mobility enhancing equipment; or

1132 (vi) tangible personal property used to correct impaired vision, including:

1133 (A) eyeglasses; or

1134 (B) contact lenses.

1135 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1136 commission may by rule define what constitutes medical equipment or supplies.

1137 [~~(41) "Drilling equipment manufacturer" means a facility:~~]

1138 [~~(a) located in the state;~~]

1139 [~~(b) with respect to which 51% or more of the manufacturing activities of the facility
1140 consist of manufacturing component parts of drilling equipment;~~]

1141 [~~(c) that uses pressure of 800,000 or more pounds per square inch as part of the
1142 manufacturing process; and]~~

- 1143 [~~(d)~~ that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
1144 manufacturing process.]
- 1145 [~~(42)~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of
1146 a compound, substance, or preparation that is:
- 1147 (i) recognized in:
- 1148 (A) the official United States Pharmacopoeia;
- 1149 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1150 (C) the official National Formulary; or
- 1151 (D) a supplement to a publication listed in Subsections [~~(42)~~] (41)(a)(i)(A) through
1152 (C);
- 1153 (ii) intended for use in the:
- 1154 (A) diagnosis of disease;
- 1155 (B) cure of disease;
- 1156 (C) mitigation of disease;
- 1157 (D) treatment of disease; or
- 1158 (E) prevention of disease; or
- 1159 (iii) intended to affect:
- 1160 (A) the structure of the body; or
- 1161 (B) any function of the body.
- 1162 (b) "Drug" does not include:
- 1163 (i) food and food ingredients;
- 1164 (ii) a dietary supplement;
- 1165 (iii) an alcoholic beverage; or
- 1166 (iv) a prosthetic device.
- 1167 [~~(43)~~] (42) (a) Except as provided in Subsection [~~(43)~~] (42)(c), "durable medical
1168 equipment" means equipment that:
- 1169 (i) can withstand repeated use;
- 1170 (ii) is primarily and customarily used to serve a medical purpose;
- 1171 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1172 (iv) is not worn in or on the body.
- 1173 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

- 1174 equipment described in Subsection [~~(43)~~] (42)(a).
- 1175 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1176 [~~(44)~~] (43) "Electronic" means:
- 1177 (a) relating to technology; and
- 1178 (b) having:
- 1179 (i) electrical capabilities;
- 1180 (ii) digital capabilities;
- 1181 (iii) magnetic capabilities;
- 1182 (iv) wireless capabilities;
- 1183 (v) optical capabilities;
- 1184 (vi) electromagnetic capabilities; or
- 1185 (vii) capabilities similar to Subsections [~~(44)~~] (43)(b)(i) through (vi).
- 1186 [~~(45)~~] (44) "Electronic financial payment service" means an establishment:
- 1187 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 1188 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 1189 federal Executive Office of the President, Office of Management and Budget; and
- 1190 (b) that performs electronic financial payment services.
- 1191 [~~(46)~~] (45) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1192 [~~(47)~~] (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 1193 (a) rail for the use of public transit; or
- 1194 (b) a separate right-of-way for the use of public transit.
- 1195 [~~(48)~~] (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1196 (a) is powered by turbine engines;
- 1197 (b) operates on jet fuel; and
- 1198 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1199 [~~(49)~~] (48) "Fixed wireless service" means a telecommunications service that provides
- 1200 radio communication between fixed points.
- 1201 [~~(50)~~] (49) (a) "Food and food ingredients" means substances:
- 1202 (i) regardless of whether the substances are in:
- 1203 (A) liquid form;
- 1204 (B) concentrated form;

- 1205 (C) solid form;
- 1206 (D) frozen form;
- 1207 (E) dried form; or
- 1208 (F) dehydrated form; and
- 1209 (ii) that are:
- 1210 (A) sold for:
- 1211 (I) ingestion by humans; or
- 1212 (II) chewing by humans; and
- 1213 (B) consumed for the substance's:
- 1214 (I) taste; or
- 1215 (II) nutritional value.
- 1216 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]
- 1217 (90)(b)(iii).
- 1218 (c) "Food and food ingredients" does not include:
- 1219 (i) an alcoholic beverage;
- 1220 (ii) tobacco; or
- 1221 (iii) prepared food.
- 1222 [~~(51)~~] (50) (a) "Fundraising sales" means sales:
- 1223 (i) (A) made by a school; or
- 1224 (B) made by a school student;
- 1225 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1226 materials, or provide transportation; and
- 1227 (iii) that are part of an officially sanctioned school activity.
- 1228 (b) For purposes of Subsection [~~(51)~~] (50)(a)(iii), "officially sanctioned school activity"
- 1229 means a school activity:
- 1230 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1231 district governing the authorization and supervision of fundraising activities;
- 1232 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1233 educational personnel by direct payment, commissions, or payment in kind; and
- 1234 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1235 controlled by the school or school district.

1236 [~~(52)~~] (51) "Geothermal energy" means energy contained in heat that continuously
1237 flows outward from the earth that is used as the sole source of energy to produce electricity.

1238 [~~(53)~~] (52) "Governing board of the agreement" means the governing board of the
1239 agreement that is:

1240 (a) authorized to administer the agreement; and

1241 (b) established in accordance with the agreement.

1242 [~~(54)~~] (53) (a) For purposes of Subsection [59-12-104\(41\)](#), "governmental entity"
1243 means:

1244 (i) the executive branch of the state, including all departments, institutions, boards,
1245 divisions, bureaus, offices, commissions, and committees;

1246 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1247 Office of the Court Administrator, and similar administrative units in the judicial branch;

1248 (iii) the legislative branch of the state, including the House of Representatives, the
1249 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1250 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1251 Analyst;

1252 (iv) the National Guard;

1253 (v) an independent entity as defined in Section [63E-1-102](#); or

1254 (vi) a political subdivision as defined in Section [17B-1-102](#).

1255 (b) "Governmental entity" does not include the state systems of public and higher
1256 education, including:

1257 (i) a school;

1258 (ii) the State Board of Education;

1259 (iii) the State Board of Regents; or

1260 (iv) an institution of higher education described in Section [53B-1-102](#).

1261 [~~(55)~~] (54) "Hydroelectric energy" means water used as the sole source of energy to
1262 produce electricity.

1263 [~~(56)~~] (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1264 or other fuels:

1265 (a) in mining or extraction of minerals;

1266 (b) in agricultural operations to produce an agricultural product up to the time of

1267 harvest or placing the agricultural product into a storage facility, including:
1268 (i) commercial greenhouses;
1269 (ii) irrigation pumps;
1270 (iii) farm machinery;
1271 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
1272 under Title 41, Chapter 1a, Part 2, Registration; and
1273 (v) other farming activities;
1274 (c) in manufacturing tangible personal property at an establishment described in:
1275 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1276 the federal Executive Office of the President, Office of Management and Budget; or
1277 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1278 American Industry Classification System of the federal Executive Office of the President,
1279 Office of Management and Budget;
1280 (d) by a scrap recycler if:
1281 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1282 one or more of the following items into prepared grades of processed materials for use in new
1283 products:
1284 (A) iron;
1285 (B) steel;
1286 (C) nonferrous metal;
1287 (D) paper;
1288 (E) glass;
1289 (F) plastic;
1290 (G) textile; or
1291 (H) rubber; and
1292 (ii) the new products under Subsection [~~(56)~~] (55)(d)(i) would otherwise be made with
1293 nonrecycled materials; or
1294 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
1295 cogeneration facility as defined in Section 54-2-1.
1296 [~~(57)~~] (56) (a) Except as provided in Subsection [~~(57)~~] (56)(b), "installation charge"
1297 means a charge for installing:

- 1298 (i) tangible personal property; or
1299 (ii) a product transferred electronically.
- 1300 (b) "Installation charge" does not include a charge for:
1301 (i) repairs or renovations of:
1302 (A) tangible personal property; or
1303 (B) a product transferred electronically; or
1304 (ii) attaching tangible personal property or a product transferred electronically:
1305 (A) to other tangible personal property; and
1306 (B) as part of a manufacturing or fabrication process.
- 1307 [~~58~~] (57) "Institution of higher education" means an institution of higher education
1308 listed in Section 53B-2-101.
- 1309 [~~59~~] (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible
1310 personal property or a product transferred electronically for:
1311 (i) (A) a fixed term; or
1312 (B) an indeterminate term; and
1313 (ii) consideration.
- 1314 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
1315 amount of consideration may be increased or decreased by reference to the amount realized
1316 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
1317 Code.
- 1318 (c) "Lease" or "rental" does not include:
1319 (i) a transfer of possession or control of property under a security agreement or
1320 deferred payment plan that requires the transfer of title upon completion of the required
1321 payments;
1322 (ii) a transfer of possession or control of property under an agreement that requires the
1323 transfer of title:
1324 (A) upon completion of required payments; and
1325 (B) if the payment of an option price does not exceed the greater of:
1326 (I) \$100; or
1327 (II) 1% of the total required payments; or
1328 (iii) providing tangible personal property along with an operator for a fixed period of

1329 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1330 designed.

1331 (d) For purposes of Subsection [~~(59)~~] (58)(c)(iii), an operator is necessary for
1332 equipment to perform as designed if the operator's duties exceed the:

- 1333 (i) set-up of tangible personal property;
1334 (ii) maintenance of tangible personal property; or
1335 (iii) inspection of tangible personal property.

1336 [~~(60)~~] (59) "Life science establishment" means an establishment in this state that is
1337 classified under the following NAICS codes of the 2007 North American Industry
1338 Classification System of the federal Executive Office of the President, Office of Management
1339 and Budget:

- 1340 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
1341 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1342 Manufacturing; or
1343 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1344 [~~(61)~~] (60) "Life science research and development facility" means a facility owned,
1345 leased, or rented by a life science establishment if research and development is performed in
1346 51% or more of the total area of the facility.

1347 [~~(62)~~] (61) "Load and leave" means delivery to a purchaser by use of a tangible storage
1348 media if the tangible storage media is not physically transferred to the purchaser.

1349 [~~(63)~~] (62) "Local taxing jurisdiction" means a:

- 1350 (a) county that is authorized to impose an agreement sales and use tax;
1351 (b) city that is authorized to impose an agreement sales and use tax; or
1352 (c) town that is authorized to impose an agreement sales and use tax.

1353 [~~(64)~~] (63) "Manufactured home" means the same as that term is defined in Section
1354 [15A-1-302](#).

1355 [~~(65)~~] (64) "Manufacturing facility" means:

- 1356 (a) an establishment described in:
1357 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1358 the federal Executive Office of the President, Office of Management and Budget; or
1359 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

1360 American Industry Classification System of the federal Executive Office of the President,
1361 Office of Management and Budget;

1362 (b) a scrap recycler if:

1363 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1364 one or more of the following items into prepared grades of processed materials for use in new
1365 products:

1366 (A) iron;

1367 (B) steel;

1368 (C) nonferrous metal;

1369 (D) paper;

1370 (E) glass;

1371 (F) plastic;

1372 (G) textile; or

1373 (H) rubber; and

1374 (ii) the new products under Subsection [~~(65)~~] (64)(b)(i) would otherwise be made with
1375 nonrecycled materials; or

1376 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
1377 placed in service on or after May 1, 2006.

1378 [~~(66)~~] (65) "Member of the immediate family of the producer" means a person who is
1379 related to a producer described in Subsection 59-12-104(20)(a) as a:

1380 (a) child or stepchild, regardless of whether the child or stepchild is:

1381 (i) an adopted child or adopted stepchild; or

1382 (ii) a foster child or foster stepchild;

1383 (b) grandchild or stepgrandchild;

1384 (c) grandparent or stepgrandparent;

1385 (d) nephew or stepnephew;

1386 (e) niece or stepniece;

1387 (f) parent or stepparent;

1388 (g) sibling or stepsibling;

1389 (h) spouse;

1390 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (65)(a) through

1391 (g); or

1392 (j) person similar to a person described in Subsections ~~[(66)]~~ (65)(a) through (i) as
1393 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1394 Administrative Rulemaking Act.

1395 ~~[(67)]~~ (66) "Mobile home" means the same as that term is defined in Section
1396 15A-1-302.

1397 ~~[(68)]~~ (67) "Mobile telecommunications service" is as defined in the Mobile
1398 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1399 ~~[(69)]~~ (68) (a) "Mobile wireless service" means a telecommunications service,
1400 regardless of the technology used, if:

- 1401 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1402 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1403 (iii) the origination point described in Subsection ~~[(69)]~~ (68)(a)(i) and the termination
1404 point described in Subsection ~~[(69)]~~ (68)(a)(ii) are not fixed.

1405 (b) "Mobile wireless service" includes a telecommunications service that is provided
1406 by a commercial mobile radio service provider.

1407 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1408 commission may by rule define "commercial mobile radio service provider."

1409 ~~[(70)]~~ (69) (a) Except as provided in Subsection ~~[(70)]~~ (69)(c), "mobility enhancing
1410 equipment" means equipment that is:

- 1411 (i) primarily and customarily used to provide or increase the ability to move from one
1412 place to another;
- 1413 (ii) appropriate for use in a:
 - 1414 (A) home; or
 - 1415 (B) motor vehicle; and
- 1416 (iii) not generally used by persons with normal mobility.

1417 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1418 the equipment described in Subsection ~~[(70)]~~ (69)(a).

1419 (c) "Mobility enhancing equipment" does not include:

- 1420 (i) a motor vehicle;
- 1421 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

1422 vehicle manufacturer;

1423 (iii) durable medical equipment; or

1424 (iv) a prosthetic device.

1425 ~~[(71)]~~ (70) "Model 1 seller" means a seller registered under the agreement that has
1426 selected a certified service provider as the seller's agent to perform all of the seller's sales and
1427 use tax functions for agreement sales and use taxes other than the seller's obligation under
1428 Section 59-12-124 to remit a tax on the seller's own purchases.

1429 ~~[(72)]~~ (71) "Model 2 seller" means a seller registered under the agreement that:

1430 (a) except as provided in Subsection ~~[(72)]~~ (71)(b), has selected a certified automated
1431 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1432 (b) retains responsibility for remitting all of the sales tax:

1433 (i) collected by the seller; and

1434 (ii) to the appropriate local taxing jurisdiction.

1435 ~~[(73)]~~ (72) (a) Subject to Subsection ~~[(73)]~~ (72)(b), "model 3 seller" means a seller
1436 registered under the agreement that has:

1437 (i) sales in at least five states that are members of the agreement;

1438 (ii) total annual sales revenues of at least \$500,000,000;

1439 (iii) a proprietary system that calculates the amount of tax:

1440 (A) for an agreement sales and use tax; and

1441 (B) due to each local taxing jurisdiction; and

1442 (iv) entered into a performance agreement with the governing board of the agreement.

1443 (b) For purposes of Subsection ~~[(73)]~~ (72)(a), "model 3 seller" includes an affiliated
1444 group of sellers using the same proprietary system.

1445 ~~[(74)]~~ (73) "Model 4 seller" means a seller that is registered under the agreement and is
1446 not a model 1 seller, model 2 seller, or model 3 seller.

1447 ~~[(75)]~~ (74) "Modular home" means a modular unit as defined in Section 15A-1-302.

1448 ~~[(76)]~~ (75) "Motor vehicle" means the same as that term is defined in Section
1449 41-1a-102.

1450 ~~[(77)]~~ (76) "Oil sands" means impregnated bituminous sands that:

1451 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1452 other hydrocarbons, or otherwise treated;

1453 (b) yield mixtures of liquid hydrocarbon; and
1454 (c) require further processing other than mechanical blending before becoming finished
1455 petroleum products.

1456 ~~[(78)]~~ (77) "Oil shale" means a group of fine black to dark brown shales containing
1457 kerogen material that yields petroleum upon heating and distillation.

1458 ~~[(79)]~~ (78) "Optional computer software maintenance contract" means a computer
1459 software maintenance contract that a customer is not obligated to purchase as a condition to the
1460 retail sale of computer software.

1461 ~~[(80)]~~ (79) (a) "Other fuels" means products that burn independently to produce heat or
1462 energy.

1463 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1464 personal property.

1465 ~~[(81)]~~ (80) (a) "Paging service" means a telecommunications service that provides
1466 transmission of a coded radio signal for the purpose of activating a specific pager.

1467 (b) For purposes of Subsection ~~[(81)]~~ (80)(a), the transmission of a coded radio signal
1468 includes a transmission by message or sound.

1469 ~~[(82)]~~ (81) "Pawnbroker" means the same as that term is defined in Section
1470 13-32a-102.

1471 ~~[(83)]~~ (82) "Pawn transaction" means the same as that term is defined in Section
1472 13-32a-102.

1473 ~~[(84)]~~ (83) (a) "Permanently attached to real property" means that for tangible personal
1474 property attached to real property:

1475 (i) the attachment of the tangible personal property to the real property:

1476 (A) is essential to the use of the tangible personal property; and

1477 (B) suggests that the tangible personal property will remain attached to the real
1478 property in the same place over the useful life of the tangible personal property; or

1479 (ii) if the tangible personal property is detached from the real property, the detachment
1480 would:

1481 (A) cause substantial damage to the tangible personal property; or

1482 (B) require substantial alteration or repair of the real property to which the tangible
1483 personal property is attached.

- 1484 (b) "Permanently attached to real property" includes:
- 1485 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 1486 (A) essential to the operation of the tangible personal property; and
- 1487 (B) attached only to facilitate the operation of the tangible personal property;
- 1488 (ii) a temporary detachment of tangible personal property from real property for a
- 1489 repair or renovation if the repair or renovation is performed where the tangible personal
- 1490 property and real property are located; or
- 1491 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 1492 Subsection [~~84~~] (83)(c)(iii) or (iv).
- 1493 (c) "Permanently attached to real property" does not include:
- 1494 (i) the attachment of portable or movable tangible personal property to real property if
- 1495 that portable or movable tangible personal property is attached to real property only for:
- 1496 (A) convenience;
- 1497 (B) stability; or
- 1498 (C) for an obvious temporary purpose;
- 1499 (ii) the detachment of tangible personal property from real property except for the
- 1500 detachment described in Subsection [~~84~~] (83)(b)(ii);
- 1501 (iii) an attachment of the following tangible personal property to real property if the
- 1502 attachment to real property is only through a line that supplies water, electricity, gas,
- 1503 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 1504 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 1505 (A) a computer;
- 1506 (B) a telephone;
- 1507 (C) a television; or
- 1508 (D) tangible personal property similar to Subsections [~~84~~] (83)(c)(iii)(A) through (C)
- 1509 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1510 Administrative Rulemaking Act; or
- 1511 (iv) an item listed in Subsection [~~125~~] (124)(c).
- 1512 [~~85~~] (84) "Person" includes any individual, firm, partnership, joint venture,
- 1513 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 1514 city, municipality, district, or other local governmental entity of the state, or any group or

1515 combination acting as a unit.

1516 ~~[(86)]~~ (85) "Place of primary use":

1517 (a) for telecommunications service other than mobile telecommunications service,
1518 means the street address representative of where the customer's use of the telecommunications
1519 service primarily occurs, which shall be:

1520 (i) the residential street address of the customer; or

1521 (ii) the primary business street address of the customer; or

1522 (b) for mobile telecommunications service, is as defined in the Mobile

1523 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1524 ~~[(87)]~~ (86) (a) "Postpaid calling service" means a telecommunications service a person
1525 obtains by making a payment on a call-by-call basis:

1526 (i) through the use of a:

1527 (A) bank card;

1528 (B) credit card;

1529 (C) debit card; or

1530 (D) travel card; or

1531 (ii) by a charge made to a telephone number that is not associated with the origination
1532 or termination of the telecommunications service.

1533 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1534 service, that would be a prepaid wireless calling service if the service were exclusively a
1535 telecommunications service.

1536 ~~[(88)]~~ (87) "Postproduction" means an activity related to the finishing or duplication of
1537 a medium described in Subsection [59-12-104\(54\)\(a\)](#).

1538 ~~[(89)]~~ (88) "Prepaid calling service" means a telecommunications service:

1539 (a) that allows a purchaser access to telecommunications service that is exclusively
1540 telecommunications service;

1541 (b) that:

1542 (i) is paid for in advance; and

1543 (ii) enables the origination of a call using an:

1544 (A) access number; or

1545 (B) authorization code;

- 1546 (c) that is dialed:
- 1547 (i) manually; or
- 1548 (ii) electronically; and
- 1549 (d) sold in predetermined units or dollars that decline:
- 1550 (i) by a known amount; and
- 1551 (ii) with use.
- 1552 [~~(90)~~] (89) "Prepaid wireless calling service" means a telecommunications service:
- 1553 (a) that provides the right to utilize:
- 1554 (i) mobile wireless service; and
- 1555 (ii) other service that is not a telecommunications service, including:
- 1556 (A) the download of a product transferred electronically;
- 1557 (B) a content service; or
- 1558 (C) an ancillary service;
- 1559 (b) that:
- 1560 (i) is paid for in advance; and
- 1561 (ii) enables the origination of a call using an:
- 1562 (A) access number; or
- 1563 (B) authorization code;
- 1564 (c) that is dialed:
- 1565 (i) manually; or
- 1566 (ii) electronically; and
- 1567 (d) sold in predetermined units or dollars that decline:
- 1568 (i) by a known amount; and
- 1569 (ii) with use.
- 1570 [~~(91)~~] (90) (a) "Prepared food" means:
- 1571 (i) food:
- 1572 (A) sold in a heated state; or
- 1573 (B) heated by a seller;
- 1574 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1575 item; or
- 1576 (iii) except as provided in Subsection [~~(91)~~] (90)(c), food sold with an eating utensil

1577 provided by the seller, including a:

1578 (A) plate;

1579 (B) knife;

1580 (C) fork;

1581 (D) spoon;

1582 (E) glass;

1583 (F) cup;

1584 (G) napkin; or

1585 (H) straw.

1586 (b) "Prepared food" does not include:

1587 (i) food that a seller only:

1588 (A) cuts;

1589 (B) repackages; or

1590 (C) pasteurizes; or

1591 (ii) (A) the following:

1592 (I) raw egg;

1593 (II) raw fish;

1594 (III) raw meat;

1595 (IV) raw poultry; or

1596 (V) a food containing an item described in Subsections [~~91~~] (90)(b)(ii)(A)(I) through

1597 (IV); and

1598 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the

1599 Food and Drug Administration's Food Code that a consumer cook the items described in

1600 Subsection [~~91~~] (90)(b)(ii)(A) to prevent food borne illness; or

1601 (iii) the following if sold without eating utensils provided by the seller:

1602 (A) food and food ingredients sold by a seller if the seller's proper primary

1603 classification under the 2002 North American Industry Classification System of the federal

1604 Executive Office of the President, Office of Management and Budget, is manufacturing in

1605 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

1606 Manufacturing;

1607 (B) food and food ingredients sold in an unheated state:

- 1608 (I) by weight or volume; and
- 1609 (II) as a single item; or
- 1610 (C) a bakery item, including:
 - 1611 (I) a bagel;
 - 1612 (II) a bar;
 - 1613 (III) a biscuit;
 - 1614 (IV) bread;
 - 1615 (V) a bun;
 - 1616 (VI) a cake;
 - 1617 (VII) a cookie;
 - 1618 (VIII) a croissant;
 - 1619 (IX) a danish;
 - 1620 (X) a donut;
 - 1621 (XI) a muffin;
 - 1622 (XII) a pastry;
 - 1623 (XIII) a pie;
 - 1624 (XIV) a roll;
 - 1625 (XV) a tart;
 - 1626 (XVI) a torte; or
 - 1627 (XVII) a tortilla.
- 1628 (c) An eating utensil provided by the seller does not include the following used to
- 1629 transport the food:
 - 1630 (i) a container; or
 - 1631 (ii) packaging.
- 1632 [~~(92)~~] (91) "Prescription" means an order, formula, or recipe that is issued:
 - 1633 (a) (i) orally;
 - 1634 (ii) in writing;
 - 1635 (iii) electronically; or
 - 1636 (iv) by any other manner of transmission; and
 - 1637 (b) by a licensed practitioner authorized by the laws of a state.
- 1638 [~~(93)~~] (92) (a) Except as provided in Subsection [~~(93)~~] (92)(b)(ii) or (iii), "prewritten

1639 computer software" means computer software that is not designed and developed:
1640 (i) by the author or other creator of the computer software; and
1641 (ii) to the specifications of a specific purchaser.
1642 (b) "Prewritten computer software" includes:
1643 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1644 software is not designed and developed:
1645 (A) by the author or other creator of the computer software; and
1646 (B) to the specifications of a specific purchaser;
1647 (ii) computer software designed and developed by the author or other creator of the
1648 computer software to the specifications of a specific purchaser if the computer software is sold
1649 to a person other than the purchaser; or
1650 (iii) except as provided in Subsection [~~93~~] (92)(c), prewritten computer software or a
1651 prewritten portion of prewritten computer software:
1652 (A) that is modified or enhanced to any degree; and
1653 (B) if the modification or enhancement described in Subsection [~~93~~] (92)(b)(iii)(A) is
1654 designed and developed to the specifications of a specific purchaser.
1655 (c) "Prewritten computer software" does not include a modification or enhancement
1656 described in Subsection [~~93~~] (92)(b)(iii) if the charges for the modification or enhancement
1657 are:
1658 (i) reasonable; and
1659 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1660 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1661 demonstrated by:
1662 (A) the books and records the seller keeps at the time of the transaction in the regular
1663 course of business, including books and records the seller keeps at the time of the transaction in
1664 the regular course of business for nontax purposes;
1665 (B) a preponderance of the facts and circumstances at the time of the transaction; and
1666 (C) the understanding of all of the parties to the transaction.
1667 [~~94~~] (93) (a) "Private communications service" means a telecommunications service:
1668 (i) that entitles a customer to exclusive or priority use of one or more communications
1669 channels between or among termination points; and

1670 (ii) regardless of the manner in which the one or more communications channels are
1671 connected.

1672 (b) "Private communications service" includes the following provided in connection
1673 with the use of one or more communications channels:

1674 (i) an extension line;

1675 (ii) a station;

1676 (iii) switching capacity; or

1677 (iv) another associated service that is provided in connection with the use of one or
1678 more communications channels as defined in Section [59-12-215](#).

1679 ~~[(95)]~~ (94) (a) Except as provided in Subsection ~~[(95)]~~ (94)(b), "product transferred
1680 electronically" means a product transferred electronically that would be subject to a tax under
1681 this chapter if that product was transferred in a manner other than electronically.

1682 (b) "Product transferred electronically" does not include:

1683 (i) an ancillary service;

1684 (ii) computer software; or

1685 (iii) a telecommunications service.

1686 ~~[(96)]~~ (95) (a) "Prosthetic device" means a device that is worn on or in the body to:

1687 (i) artificially replace a missing portion of the body;

1688 (ii) prevent or correct a physical deformity or physical malfunction; or

1689 (iii) support a weak or deformed portion of the body.

1690 (b) "Prosthetic device" includes:

1691 (i) parts used in the repairs or renovation of a prosthetic device;

1692 (ii) replacement parts for a prosthetic device;

1693 (iii) a dental prosthesis; or

1694 (iv) a hearing aid.

1695 (c) "Prosthetic device" does not include:

1696 (i) corrective eyeglasses; or

1697 (ii) contact lenses.

1698 ~~[(97)]~~ (96) (a) "Protective equipment" means an item:

1699 (i) for human wear; and

1700 (ii) that is:

- 1701 (A) designed as protection:
- 1702 (I) to the wearer against injury or disease; or
- 1703 (II) against damage or injury of other persons or property; and
- 1704 (B) not suitable for general use.
- 1705 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1706 commission shall make rules:
- 1707 (i) listing the items that constitute "protective equipment"; and
- 1708 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1709 under the agreement.
- 1710 [~~98~~] (97) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1711 written or printed matter, other than a photocopy:
- 1712 (i) regardless of:
- 1713 (A) characteristics;
- 1714 (B) copyright;
- 1715 (C) form;
- 1716 (D) format;
- 1717 (E) method of reproduction; or
- 1718 (F) source; and
- 1719 (ii) made available in printed or electronic format.
- 1720 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1721 commission may by rule define the term "photocopy."
- 1722 [~~99~~] (98) (a) "Purchase price" and "sales price" mean the total amount of
- 1723 consideration:
- 1724 (i) valued in money; and
- 1725 (ii) for which tangible personal property, a product transferred electronically, or
- 1726 services are:
- 1727 (A) sold;
- 1728 (B) leased; or
- 1729 (C) rented.
- 1730 (b) "Purchase price" and "sales price" include:
- 1731 (i) the seller's cost of the tangible personal property, a product transferred

- 1732 electronically, or services sold;
- 1733 (ii) expenses of the seller, including:
- 1734 (A) the cost of materials used;
- 1735 (B) a labor cost;
- 1736 (C) a service cost;
- 1737 (D) interest;
- 1738 (E) a loss;
- 1739 (F) the cost of transportation to the seller; or
- 1740 (G) a tax imposed on the seller;
- 1741 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1742 (iv) consideration a seller receives from a person other than the purchaser if:
- 1743 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1744 and
- 1745 (II) the consideration described in Subsection [~~(99)~~] (98)(b)(iv)(A)(I) is directly related
- 1746 to a price reduction or discount on the sale;
- 1747 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1748 purchaser;
- 1749 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1750 the seller at the time of the sale to the purchaser; and
- 1751 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1752 seller to claim a price reduction or discount; and
- 1753 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1754 coupon, or other documentation with the understanding that the person other than the seller
- 1755 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1756 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1757 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1758 available to any patron of a seller does not constitute membership in a group or organization
- 1759 allowed a price reduction or discount; or
- 1760 (III) the price reduction or discount is identified as a third party price reduction or
- 1761 discount on the:
- 1762 (Aa) invoice the purchaser receives; or

- 1763 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1764 (c) "Purchase price" and "sales price" do not include:
- 1765 (i) a discount:
- 1766 (A) in a form including:
- 1767 (I) cash;
- 1768 (II) term; or
- 1769 (III) coupon;
- 1770 (B) that is allowed by a seller;
- 1771 (C) taken by a purchaser on a sale; and
- 1772 (D) that is not reimbursed by a third party; or
- 1773 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately
- 1774 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1775 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1776 transaction in the regular course of business, including books and records the seller keeps at the
- 1777 time of the transaction in the regular course of business for nontax purposes, by a
- 1778 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1779 understanding of all of the parties to the transaction:
- 1780 (A) the following from credit extended on the sale of tangible personal property or
- 1781 services:
- 1782 (I) a carrying charge;
- 1783 (II) a financing charge; or
- 1784 (III) an interest charge;
- 1785 (B) a delivery charge;
- 1786 (C) an installation charge;
- 1787 (D) a manufacturer rebate on a motor vehicle; or
- 1788 (E) a tax or fee legally imposed directly on the consumer.
- 1789 ~~[(100)]~~ (99) "Purchaser" means a person to whom:
- 1790 (a) a sale of tangible personal property is made;
- 1791 (b) a product is transferred electronically; or
- 1792 (c) a service is furnished.
- 1793 ~~[(101)]~~ (100) "Qualifying enterprise data center" means an establishment that will:

1794 (a) own and operate a data center facility that will house a group of networked server
 1795 computers in one physical location in order to centralize the dissemination, management, and
 1796 storage of data and information;

1797 (b) be located in the state;

1798 (c) be a new operation constructed on or after July 1, 2016;

1799 (d) consist of one or more buildings that total 150,000 or more square feet;

1800 (e) be owned or leased by:

1801 (i) the establishment; or

1802 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 1803 establishment; and

1804 (f) be located on one or more parcels of land that are owned or leased by:

1805 (i) the establishment; or

1806 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 1807 establishment.

1808 [~~(102)~~] (101) "Regularly rented" means:

1809 (a) rented to a guest for value three or more times during a calendar year; or

1810 (b) advertised or held out to the public as a place that is regularly rented to guests for
 1811 value.

1812 [~~(103)~~] (102) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (58).

1813 [~~(104)~~] (103) (a) Except as provided in Subsection [~~(104)~~] (103)(b), "repairs or
 1814 renovations of tangible personal property" means:

1815 (i) a repair or renovation of tangible personal property that is not permanently attached
 1816 to real property; or

1817 (ii) attaching tangible personal property or a product transferred electronically to other
 1818 tangible personal property or detaching tangible personal property or a product transferred
 1819 electronically from other tangible personal property if:

1820 (A) the other tangible personal property to which the tangible personal property or
 1821 product transferred electronically is attached or from which the tangible personal property or
 1822 product transferred electronically is detached is not permanently attached to real property; and

1823 (B) the attachment of tangible personal property or a product transferred electronically
 1824 to other tangible personal property or detachment of tangible personal property or a product

1825 transferred electronically from other tangible personal property is made in conjunction with a
1826 repair or replacement of tangible personal property or a product transferred electronically.

1827 (b) "Repairs or renovations of tangible personal property" does not include:

1828 (i) attaching prewritten computer software to other tangible personal property if the
1829 other tangible personal property to which the prewritten computer software is attached is not
1830 permanently attached to real property; or

1831 (ii) detaching prewritten computer software from other tangible personal property if the
1832 other tangible personal property from which the prewritten computer software is detached is
1833 not permanently attached to real property.

1834 [~~(105)~~] (104) "Research and development" means the process of inquiry or
1835 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1836 process of preparing those devices, technologies, or applications for marketing.

1837 [~~(106)~~] (105) (a) "Residential telecommunications services" means a
1838 telecommunications service or an ancillary service that is provided to an individual for personal
1839 use:

1840 (i) at a residential address; or

1841 (ii) at an institution, including a nursing home or a school, if the telecommunications
1842 service or ancillary service is provided to and paid for by the individual residing at the
1843 institution rather than the institution.

1844 (b) For purposes of Subsection [~~(106)~~] (105)(a)(i), a residential address includes an:

1845 (i) apartment; or

1846 (ii) other individual dwelling unit.

1847 [~~(107)~~] (106) "Residential use" means the use in or around a home, apartment building,
1848 sleeping quarters, and similar facilities or accommodations.

1849 [~~(108)~~] (107) (a) "Retailer" means any person engaged in a regularly organized
1850 business in tangible personal property or any other taxable transaction under Subsection
1851 59-12-103(1), and who is selling to the user or consumer and not for resale.

1852 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1853 engaged in the business of selling to users or consumers within the state.

1854 [~~(109)~~] (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1855 other than:

- 1856 (a) resale;
- 1857 (b) sublease; or
- 1858 (c) subrent.
- 1859 ~~[(110)]~~ (109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1860 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1861 Subsection [59-12-103](#)(1), for consideration.
- 1862 (b) "Sale" includes:
- 1863 (i) installment and credit sales;
- 1864 (ii) any closed transaction constituting a sale;
- 1865 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1866 chapter;
- 1867 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1868 title as security for the payment of the price; and
- 1869 (v) any transaction under which right to possession, operation, or use of any article of
- 1870 tangible personal property is granted under a lease or contract and the transfer of possession
- 1871 would be taxable if an outright sale were made.
- 1872 ~~[(111)]~~ (110) "Sale at retail" means the same as that term is defined in Subsection
- 1873 ~~[(109)]~~ (108).
- 1874 ~~[(112)]~~ (111) "Sale-leaseback transaction" means a transaction by which title to
- 1875 tangible personal property or a product transferred electronically that is subject to a tax under
- 1876 this chapter is transferred:
- 1877 (a) by a purchaser-lessee;
- 1878 (b) to a lessor;
- 1879 (c) for consideration; and
- 1880 (d) if:
- 1881 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1882 of the tangible personal property or product transferred electronically;
- 1883 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1884 lessor is intended as a form of financing:
- 1885 (A) for the tangible personal property or product transferred electronically; and
- 1886 (B) to the purchaser-lessee; and

1887 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1888 is required to:

1889 (A) capitalize the tangible personal property or product transferred electronically for
1890 financial reporting purposes; and

1891 (B) account for the lease payments as payments made under a financing arrangement.

1892 [~~(113)~~] (112) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]
1893 (98).

1894 [~~(114)~~] (113) (a) "Sales relating to schools" means the following sales by, amounts
1895 paid to, or amounts charged by a school:

1896 (i) sales that are directly related to the school's educational functions or activities
1897 including:

1898 (A) the sale of:

1899 (I) textbooks;

1900 (II) textbook fees;

1901 (III) laboratory fees;

1902 (IV) laboratory supplies; or

1903 (V) safety equipment;

1904 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1905 that:

1906 (I) a student is specifically required to wear as a condition of participation in a
1907 school-related event or school-related activity; and

1908 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1909 place of ordinary clothing;

1910 (C) sales of the following if the net or gross revenues generated by the sales are
1911 deposited into a school district fund or school fund dedicated to school meals:

1912 (I) food and food ingredients; or

1913 (II) prepared food; or

1914 (D) transportation charges for official school activities; or

1915 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1916 event or school-related activity.

1917 (b) "Sales relating to schools" does not include:

- 1918 (i) bookstore sales of items that are not educational materials or supplies;
- 1919 (ii) except as provided in Subsection [~~(114)~~] (113)(a)(i)(B):
- 1920 (A) clothing;
- 1921 (B) clothing accessories or equipment;
- 1922 (C) protective equipment; or
- 1923 (D) sports or recreational equipment; or
- 1924 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1925 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1926 (A) other than a:
- 1927 (I) school;
- 1928 (II) nonprofit organization authorized by a school board or a governing body of a
- 1929 private school to organize and direct a competitive secondary school activity; or
- 1930 (III) nonprofit association authorized by a school board or a governing body of a
- 1931 private school to organize and direct a competitive secondary school activity; and
- 1932 (B) that is required to collect sales and use taxes under this chapter.
- 1933 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1934 commission may make rules defining the term "passed through."
- 1935 [~~(115)~~] (114) For purposes of this section and Section [59-12-104](#), "school":
- 1936 (a) means:
- 1937 (i) an elementary school or a secondary school that:
- 1938 (A) is a:
- 1939 (I) public school; or
- 1940 (II) private school; and
- 1941 (B) provides instruction for one or more grades kindergarten through 12; or
- 1942 (ii) a public school district; and
- 1943 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1944 [~~(116)~~] (115) "Seller" means a person that makes a sale, lease, or rental of:
- 1945 (a) tangible personal property;
- 1946 (b) a product transferred electronically; or
- 1947 (c) a service.
- 1948 [~~(117)~~] (116) (a) "Semiconductor fabricating, processing, research, or development

1949 materials" means tangible personal property or a product transferred electronically if the
1950 tangible personal property or product transferred electronically is:

1951 (i) used primarily in the process of:

1952 (A) (I) manufacturing a semiconductor;

1953 (II) fabricating a semiconductor; or

1954 (III) research or development of a:

1955 (Aa) semiconductor; or

1956 (Bb) semiconductor manufacturing process; or

1957 (B) maintaining an environment suitable for a semiconductor; or

1958 (ii) consumed primarily in the process of:

1959 (A) (I) manufacturing a semiconductor;

1960 (II) fabricating a semiconductor; or

1961 (III) research or development of a:

1962 (Aa) semiconductor; or

1963 (Bb) semiconductor manufacturing process; or

1964 (B) maintaining an environment suitable for a semiconductor.

1965 (b) "Semiconductor fabricating, processing, research, or development materials"

1966 includes:

1967 (i) parts used in the repairs or renovations of tangible personal property or a product
1968 transferred electronically described in Subsection [~~(117)~~] (116)(a); or

1969 (ii) a chemical, catalyst, or other material used to:

1970 (A) produce or induce in a semiconductor a:

1971 (I) chemical change; or

1972 (II) physical change;

1973 (B) remove impurities from a semiconductor; or

1974 (C) improve the marketable condition of a semiconductor.

1975 [~~(118)~~] (117) "Senior citizen center" means a facility having the primary purpose of
1976 providing services to the aged as defined in Section 62A-3-101.

1977 [~~(119)~~] (118) (a) Subject to Subsections [~~(119)~~] (118)(b) and (c), "short-term lodging
1978 consumable" means tangible personal property that:

1979 (i) a business that provides accommodations and services described in Subsection

1980 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1981 to a purchaser;
1982 (ii) is intended to be consumed by the purchaser; and
1983 (iii) is:
1984 (A) included in the purchase price of the accommodations and services; and
1985 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1986 to the purchaser.
1987 (b) "Short-term lodging consumable" includes:
1988 (i) a beverage;
1989 (ii) a brush or comb;
1990 (iii) a cosmetic;
1991 (iv) a hair care product;
1992 (v) lotion;
1993 (vi) a magazine;
1994 (vii) makeup;
1995 (viii) a meal;
1996 (ix) mouthwash;
1997 (x) nail polish remover;
1998 (xi) a newspaper;
1999 (xii) a notepad;
2000 (xiii) a pen;
2001 (xiv) a pencil;
2002 (xv) a razor;
2003 (xvi) saline solution;
2004 (xvii) a sewing kit;
2005 (xviii) shaving cream;
2006 (xix) a shoe shine kit;
2007 (xx) a shower cap;
2008 (xxi) a snack item;
2009 (xxii) soap;
2010 (xxiii) toilet paper;

2011 (xxiv) a toothbrush;
2012 (xxv) toothpaste; or
2013 (xxvi) an item similar to Subsections [~~(119)~~] (118)(b)(i) through (xxv) as the
2014 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
2015 Administrative Rulemaking Act.
2016 (c) "Short-term lodging consumable" does not include:
2017 (i) tangible personal property that is cleaned or washed to allow the tangible personal
2018 property to be reused; or
2019 (ii) a product transferred electronically.
2020 [~~(120)~~] (119) "Simplified electronic return" means the electronic return:
2021 (a) described in Section 318(C) of the agreement; and
2022 (b) approved by the governing board of the agreement.
2023 [~~(121)~~] (120) "Solar energy" means the sun used as the sole source of energy for
2024 producing electricity.
2025 [~~(122)~~] (121) (a) "Sports or recreational equipment" means an item:
2026 (i) designed for human use; and
2027 (ii) that is:
2028 (A) worn in conjunction with:
2029 (I) an athletic activity; or
2030 (II) a recreational activity; and
2031 (B) not suitable for general use.
2032 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2033 commission shall make rules:
2034 (i) listing the items that constitute "sports or recreational equipment"; and
2035 (ii) that are consistent with the list of items that constitute "sports or recreational
2036 equipment" under the agreement.
2037 [~~(123)~~] (122) "State" means the state of Utah, its departments, and agencies.
2038 [~~(124)~~] (123) "Storage" means any keeping or retention of tangible personal property or
2039 any other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose
2040 except sale in the regular course of business.
2041 [~~(125)~~] (124) (a) Except as provided in Subsection [~~(125)~~] (124)(d) or (e), "tangible

2042 personal property" means personal property that:

2043 (i) may be:

2044 (A) seen;

2045 (B) weighed;

2046 (C) measured;

2047 (D) felt; or

2048 (E) touched; or

2049 (ii) is in any manner perceptible to the senses.

2050 (b) "Tangible personal property" includes:

2051 (i) electricity;

2052 (ii) water;

2053 (iii) gas;

2054 (iv) steam; or

2055 (v) prewritten computer software, regardless of the manner in which the prewritten

2056 computer software is transferred.

2057 (c) "Tangible personal property" includes the following regardless of whether the item

2058 is attached to real property:

2059 (i) a dishwasher;

2060 (ii) a dryer;

2061 (iii) a freezer;

2062 (iv) a microwave;

2063 (v) a refrigerator;

2064 (vi) a stove;

2065 (vii) a washer; or

2066 (viii) an item similar to Subsections [~~(125)~~] (124)(c)(i) through (vii) as determined by

2067 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

2068 Rulemaking Act.

2069 (d) "Tangible personal property" does not include a product that is transferred

2070 electronically.

2071 (e) "Tangible personal property" does not include the following if attached to real

2072 property, regardless of whether the attachment to real property is only through a line that

2073 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2074 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2075 Rulemaking Act:

- 2076 (i) a hot water heater;
- 2077 (ii) a water filtration system; or
- 2078 (iii) a water softener system.

2079 ~~[(126)]~~ (125) (a) "Telecommunications enabling or facilitating equipment, machinery,
2080 or software" means an item listed in Subsection ~~[(126)]~~ (125)(b) if that item is purchased or
2081 leased primarily to enable or facilitate one or more of the following to function:

- 2082 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2083 (ii) telecommunications transmission equipment, machinery, or software.

2084 (b) The following apply to Subsection ~~[(126)]~~ (125)(a):

- 2085 (i) a pole;
- 2086 (ii) software;
- 2087 (iii) a supplementary power supply;
- 2088 (iv) temperature or environmental equipment or machinery;
- 2089 (v) test equipment;
- 2090 (vi) a tower; or

2091 (vii) equipment, machinery, or software that functions similarly to an item listed in
2092 Subsections ~~[(126)]~~ (125)(b)(i) through (vi) as determined by the commission by rule made in
2093 accordance with Subsection ~~[(126)]~~ (125)(c).

2094 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2095 commission may by rule define what constitutes equipment, machinery, or software that
2096 functions similarly to an item listed in Subsections ~~[(126)]~~ (125)(b)(i) through (vi).

2097 ~~[(127)]~~ (126) "Telecommunications equipment, machinery, or software required for
2098 911 service" means equipment, machinery, or software that is required to comply with 47
2099 C.F.R. Sec. 20.18.

2100 ~~[(128)]~~ (127) "Telecommunications maintenance or repair equipment, machinery, or
2101 software" means equipment, machinery, or software purchased or leased primarily to maintain
2102 or repair one or more of the following, regardless of whether the equipment, machinery, or
2103 software is purchased or leased as a spare part or as an upgrade or modification to one or more

2104 of the following:

- 2105 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2106 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2107 (c) telecommunications transmission equipment, machinery, or software.

2108 [~~(129)~~] (128) (a) "Telecommunications service" means the electronic conveyance,
2109 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2110 point, or among or between points.

2111 (b) "Telecommunications service" includes:

2112 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2113 processing application is used to act:

2114 (A) on the code, form, or protocol of the content;

2115 (B) for the purpose of electronic conveyance, routing, or transmission; and

2116 (C) regardless of whether the service:

2117 (I) is referred to as voice over Internet protocol service; or

2118 (II) is classified by the Federal Communications Commission as enhanced or value
2119 added;

2120 (ii) an 800 service;

2121 (iii) a 900 service;

2122 (iv) a fixed wireless service;

2123 (v) a mobile wireless service;

2124 (vi) a postpaid calling service;

2125 (vii) a prepaid calling service;

2126 (viii) a prepaid wireless calling service; or

2127 (ix) a private communications service.

2128 (c) "Telecommunications service" does not include:

2129 (i) advertising, including directory advertising;

2130 (ii) an ancillary service;

2131 (iii) a billing and collection service provided to a third party;

2132 (iv) a data processing and information service if:

2133 (A) the data processing and information service allows data to be:

2134 (I) (Aa) acquired;

- 2135 (Bb) generated;
- 2136 (Cc) processed;
- 2137 (Dd) retrieved; or
- 2138 (Ee) stored; and
- 2139 (II) delivered by an electronic transmission to a purchaser; and
- 2140 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2141 or information;
- 2142 (v) installation or maintenance of the following on a customer's premises:
- 2143 (A) equipment; or
- 2144 (B) wiring;
- 2145 (vi) Internet access service;
- 2146 (vii) a paging service;
- 2147 (viii) a product transferred electronically, including:
- 2148 (A) music;
- 2149 (B) reading material;
- 2150 (C) a ring tone;
- 2151 (D) software; or
- 2152 (E) video;
- 2153 (ix) a radio and television audio and video programming service:
- 2154 (A) regardless of the medium; and
- 2155 (B) including:
- 2156 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2157 programming service by a programming service provider;
- 2158 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2159 (III) audio and video programming services delivered by a commercial mobile radio
- 2160 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2161 (x) a value-added nonvoice data service; or
- 2162 (xi) tangible personal property.
- 2163 ~~[(130)]~~ (129) (a) "Telecommunications service provider" means a person that:
- 2164 (i) owns, controls, operates, or manages a telecommunications service; and
- 2165 (ii) engages in an activity described in Subsection ~~[(130)]~~ (129)(a)(i) for the shared use

2166 with or resale to any person of the telecommunications service.

2167 (b) A person described in Subsection [~~(130)~~] (129)(a) is a telecommunications service
2168 provider whether or not the Public Service Commission of Utah regulates:

2169 (i) that person; or

2170 (ii) the telecommunications service that the person owns, controls, operates, or
2171 manages.

2172 [~~(131)~~] (130) (a) "Telecommunications switching or routing equipment, machinery, or
2173 software" means an item listed in Subsection [~~(131)~~] (130)(b) if that item is purchased or
2174 leased primarily for switching or routing:

2175 (i) an ancillary service;

2176 (ii) data communications;

2177 (iii) voice communications; or

2178 (iv) telecommunications service.

2179 (b) The following apply to Subsection [~~(131)~~] (130)(a):

2180 (i) a bridge;

2181 (ii) a computer;

2182 (iii) a cross connect;

2183 (iv) a modem;

2184 (v) a multiplexer;

2185 (vi) plug in circuitry;

2186 (vii) a router;

2187 (viii) software;

2188 (ix) a switch; or

2189 (x) equipment, machinery, or software that functions similarly to an item listed in
2190 Subsections [~~(131)~~] (130)(b)(i) through (ix) as determined by the commission by rule made in
2191 accordance with Subsection [~~(131)~~] (130)(c).

2192 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2193 commission may by rule define what constitutes equipment, machinery, or software that
2194 functions similarly to an item listed in Subsections [~~(131)~~] (130)(b)(i) through (ix).

2195 [~~(132)~~] (131) (a) "Telecommunications transmission equipment, machinery, or
2196 software" means an item listed in Subsection [~~(132)~~] (131)(b) if that item is purchased or

- 2197 leased primarily for sending, receiving, or transporting:
- 2198 (i) an ancillary service;
 - 2199 (ii) data communications;
 - 2200 (iii) voice communications; or
 - 2201 (iv) telecommunications service.
- 2202 (b) The following apply to Subsection [~~(132)~~] (131)(a):
- 2203 (i) an amplifier;
 - 2204 (ii) a cable;
 - 2205 (iii) a closure;
 - 2206 (iv) a conduit;
 - 2207 (v) a controller;
 - 2208 (vi) a duplexer;
 - 2209 (vii) a filter;
 - 2210 (viii) an input device;
 - 2211 (ix) an input/output device;
 - 2212 (x) an insulator;
 - 2213 (xi) microwave machinery or equipment;
 - 2214 (xii) an oscillator;
 - 2215 (xiii) an output device;
 - 2216 (xiv) a pedestal;
 - 2217 (xv) a power converter;
 - 2218 (xvi) a power supply;
 - 2219 (xvii) a radio channel;
 - 2220 (xviii) a radio receiver;
 - 2221 (xix) a radio transmitter;
 - 2222 (xx) a repeater;
 - 2223 (xxi) software;
 - 2224 (xxii) a terminal;
 - 2225 (xxiii) a timing unit;
 - 2226 (xxiv) a transformer;
 - 2227 (xxv) a wire; or

2228 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2229 Subsections ~~[(132)]~~ (131)(b)(i) through (xxv) as determined by the commission by rule made in
2230 accordance with Subsection ~~[(132)]~~ (131)(c).

2231 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2232 commission may by rule define what constitutes equipment, machinery, or software that
2233 functions similarly to an item listed in Subsections ~~[(132)]~~ (131)(b)(i) through (xxv).

2234 ~~[(133)]~~ (132) (a) "Textbook for a higher education course" means a textbook or other
2235 printed material that is required for a course:

2236 (i) offered by an institution of higher education; and

2237 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2238 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2239 ~~[(134)]~~ (133) "Tobacco" means:

2240 (a) a cigarette;

2241 (b) a cigar;

2242 (c) chewing tobacco;

2243 (d) pipe tobacco; or

2244 (e) any other item that contains tobacco.

2245 ~~[(135)]~~ (134) "Unassisted amusement device" means an amusement device, skill
2246 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2247 operate the amusement device, skill device, or ride device.

2248 ~~[(136)]~~ (135) (a) "Use" means the exercise of any right or power over tangible personal
2249 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2250 incident to the ownership or the leasing of that tangible personal property, product transferred
2251 electronically, or service.

2252 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2253 property, a product transferred electronically, or a service in the regular course of business and
2254 held for resale.

2255 ~~[(137)]~~ (136) "Value-added nonvoice data service" means a service:

2256 (a) that otherwise meets the definition of a telecommunications service except that a
2257 computer processing application is used to act primarily for a purpose other than conveyance,
2258 routing, or transmission; and

2259 (b) with respect to which a computer processing application is used to act on data or
2260 information:

- 2261 (i) code;
- 2262 (ii) content;
- 2263 (iii) form; or
- 2264 (iv) protocol.

2265 ~~[(138)]~~ (137) (a) Subject to Subsection ~~[(138)]~~ (137)(b), "vehicle" means the following
2266 that are required to be titled, registered, or titled and registered:

- 2267 (i) an aircraft as defined in Section 72-10-102;
- 2268 (ii) a vehicle as defined in Section 41-1a-102;
- 2269 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2270 (iv) a vessel as defined in Section 41-1a-102.

2271 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2272 (i) a vehicle described in Subsection ~~[(138)]~~ (137)(a); or
- 2273 (ii) (A) a locomotive;
- 2274 (B) a freight car;
- 2275 (C) railroad work equipment; or
- 2276 (D) other railroad rolling stock.

2277 ~~[(139)]~~ (138) "Vehicle dealer" means a person engaged in the business of buying,
2278 selling, or exchanging a vehicle as defined in Subsection ~~[(138)]~~ (137).

2279 ~~[(140)]~~ (139) (a) "Vertical service" means an ancillary service that:

- 2280 (i) is offered in connection with one or more telecommunications services; and
- 2281 (ii) offers an advanced calling feature that allows a customer to:
 - 2282 (A) identify a caller; and
 - 2283 (B) manage multiple calls and call connections.

2284 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2285 conference bridging service.

2286 ~~[(141)]~~ (140) (a) "Voice mail service" means an ancillary service that enables a
2287 customer to receive, send, or store a recorded message.

2288 (b) "Voice mail service" does not include a vertical service that a customer is required
2289 to have in order to utilize a voice mail service.

2290 ~~[(142)]~~ (141) (a) Except as provided in Subsection ~~[(142)]~~ (141)(b), "waste energy
2291 facility" means a facility that generates electricity:

2292 (i) using as the primary source of energy waste materials that would be placed in a
2293 landfill or refuse pit if it were not used to generate electricity, including:

2294 (A) tires;

2295 (B) waste coal;

2296 (C) oil shale; or

2297 (D) municipal solid waste; and

2298 (ii) in amounts greater than actually required for the operation of the facility.

2299 (b) "Waste energy facility" does not include a facility that incinerates:

2300 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2301 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2302 ~~[(143)]~~ (142) "Watercraft" means a vessel as defined in Section 73-18-2.

2303 ~~[(144)]~~ (143) "Wind energy" means wind used as the sole source of energy to produce
2304 electricity.

2305 ~~[(145)]~~ (144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2306 geographic location by the United States Postal Service.

2307 Section 12. Section **59-12-104** is amended to read:

2308 **59-12-104. Exemptions.**

2309 Exemptions from the taxes imposed by this chapter are as follows:

2310 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2311 under Chapter 13, Motor and Special Fuel Tax Act;

2312 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2313 subdivisions; however, this exemption does not apply to sales of:

2314 (a) construction materials except:

2315 (i) construction materials purchased by or on behalf of institutions of the public
2316 education system as defined in Utah Constitution, Article X, Section 2, provided the
2317 construction materials are clearly identified and segregated and installed or converted to real
2318 property which is owned by institutions of the public education system; and

2319 (ii) construction materials purchased by the state, its institutions, or its political
2320 subdivisions which are installed or converted to real property by employees of the state, its

2321 institutions, or its political subdivisions; or

2322 (b) tangible personal property in connection with the construction, operation,
2323 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2324 providing additional project capacity, as defined in Section 11-13-103;

2325 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2326 (i) the proceeds of each sale do not exceed \$1; and

2327 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2328 the cost of the item described in Subsection (3)(b) as goods consumed; and

2329 (b) Subsection (3)(a) applies to:

2330 (i) food and food ingredients; or

2331 (ii) prepared food;

2332 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2333 (i) alcoholic beverages;

2334 (ii) food and food ingredients; or

2335 (iii) prepared food;

2336 (b) sales of tangible personal property or a product transferred electronically:

2337 (i) to a passenger;

2338 (ii) by a commercial airline carrier; and

2339 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2340 (c) services related to Subsection (4)(a) or (b);

2341 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
2342 and equipment:]~~

2343 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
2344 North American Industry Classification System of the federal Executive Office of the
2345 President, Office of Management and Budget; and]~~

2346 ~~[(H) for:]~~

2347 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or
2348 equipment in the aircraft;]~~

2349 ~~[(Bb) renovation of an aircraft; or]~~

2350 ~~[(Cc) repair of an aircraft; or]~~

2351 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~

2352 commerce; or]

2353 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
2354 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~

2355 ~~[(b) notwithstanding the time period of Subsection ~~59-1-1410~~(8) for filing for a refund,~~
2356 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
2357 ~~refund:]~~

2358 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

2359 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

2360 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
2361 ~~the sale prior to filing for the refund;]~~

2362 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

2363 ~~[(v) in accordance with Section ~~59-1-1410~~; and]~~

2364 ~~[(vi) subject to any extension allowed for filing for a refund under Section ~~59-1-1410~~,~~
2365 ~~if the person files for the refund on or before September 30, 2011;]~~

2366 (5) sales of parts and equipment for installation in an aircraft operated by a common
2367 carrier in interstate or foreign commerce;

2368 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2369 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2370 exhibitor, distributor, or commercial television or radio broadcaster;

2371 (7) (a) except as provided in Subsection ~~[(88)]~~ (85) and subject to Subsection (7)(b),
2372 sales of cleaning or washing of tangible personal property if the cleaning or washing of the
2373 tangible personal property is not assisted cleaning or washing of tangible personal property;

2374 (b) if a seller that sells at the same business location assisted cleaning or washing of
2375 tangible personal property and cleaning or washing of tangible personal property that is not
2376 assisted cleaning or washing of tangible personal property, the exemption described in
2377 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2378 or washing of the tangible personal property; and

2379 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2380 Utah Administrative Rulemaking Act, the commission may make rules:

2381 (i) governing the circumstances under which sales are at the same business location;

2382 and

- 2383 (ii) establishing the procedures and requirements for a seller to separately account for
- 2384 sales of assisted cleaning or washing of tangible personal property;
- 2385 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 2386 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
- 2387 fulfilled;
- 2388 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 2389 this state if the vehicle is:
 - 2390 (a) not registered in this state; and
 - 2391 (b) (i) not used in this state; or
 - 2392 (ii) used in this state:
 - 2393 (A) if the vehicle is not used to conduct business, for a time period that does not
 - 2394 exceed the longer of:
 - 2395 (I) 30 days in any calendar year; or
 - 2396 (II) the time period necessary to transport the vehicle to the borders of this state; or
 - 2397 (B) if the vehicle is used to conduct business, for the time period necessary to transport
 - 2398 the vehicle to the borders of this state;
 - 2399 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
 - 2400 (i) the item is intended for human use; and
 - 2401 (ii) (A) a prescription was issued for the item; or
 - 2402 (B) the item was purchased by a hospital or other medical facility; and
 - 2403 (b) (i) Subsection (10)(a) applies to:
 - 2404 (A) a drug;
 - 2405 (B) a syringe; or
 - 2406 (C) a stoma supply; and
 - 2407 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 2408 commission may by rule define the terms:
 - 2409 (A) "syringe"; or
 - 2410 (B) "stoma supply";
 - 2411 (11) purchases or leases exempt under Section [19-12-201](#);
 - 2412 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 2413 (i) the following if the item described in Subsection (12)(c) is not available to the

- 2414 general public:
- 2415 (A) a church; or
- 2416 (B) a charitable institution;
- 2417 (ii) an institution of higher education if:
- 2418 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2419 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2420 offered by the institution of higher education; or
- 2421 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2422 (i) a medical facility; or
- 2423 (ii) a nursing facility; and
- 2424 (c) Subsections (12)(a) and (b) apply to:
- 2425 (i) food and food ingredients;
- 2426 (ii) prepared food; or
- 2427 (iii) alcoholic beverages;
- 2428 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 2429 or a product transferred electronically by a person:
- 2430 (i) regardless of the number of transactions involving the sale of that tangible personal
- 2431 property or product transferred electronically by that person; and
- 2432 (ii) not regularly engaged in the business of selling that type of tangible personal
- 2433 property or product transferred electronically;
- 2434 (b) this Subsection (13) does not apply if:
- 2435 (i) the sale is one of a series of sales of a character to indicate that the person is
- 2436 regularly engaged in the business of selling that type of tangible personal property or product
- 2437 transferred electronically;
- 2438 (ii) the person holds that person out as regularly engaged in the business of selling that
- 2439 type of tangible personal property or product transferred electronically;
- 2440 (iii) the person sells an item of tangible personal property or product transferred
- 2441 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 2442 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 2443 this state in which case the tax is based upon:
- 2444 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

2445 sold; or

2446 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2447 value of the vehicle or vessel being sold at the time of the sale as determined by the
2448 commission; and

2449 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2450 commission shall make rules establishing the circumstances under which:

2451 (i) a person is regularly engaged in the business of selling a type of tangible personal
2452 property or product transferred electronically;

2453 (ii) a sale of tangible personal property or a product transferred electronically is one of
2454 a series of sales of a character to indicate that a person is regularly engaged in the business of
2455 selling that type of tangible personal property or product transferred electronically; or

2456 (iii) a person holds that person out as regularly engaged in the business of selling a type
2457 of tangible personal property or product transferred electronically;

2458 (14) amounts paid or charged for a purchase or lease of machinery, equipment, [or]
2459 normal operating repair or replacement parts [~~with an economic life of three or more years~~], or
2460 materials, except for office equipment or office supplies, by:

2461 (a) a manufacturing facility[~~, except as provided in Subsection (86),~~] that:

2462 (i) is located in the state; and

2463 (ii) uses or consumes the machinery, equipment, [or] normal operating repair or
2464 replacement parts, or materials:

2465 (A) in the manufacturing process to manufacture an item sold as tangible personal
2466 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2467 Utah Administrative Rulemaking Act; or

2468 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2469 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2470 Administrative Rulemaking Act;

2471 (b) an establishment, as the commission defines that term in accordance with Title 63G,
2472 Chapter 3, Utah Administrative Rulemaking Act, that:

2473 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2474 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2475 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the

2476 2002 North American Industry Classification System of the federal Executive Office of the
2477 President, Office of Management and Budget;

2478 (ii) is located in the state; and

2479 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
2480 replacement parts, or materials in:

2481 (A) the production process to produce an item sold as tangible personal property, as the
2482 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2483 Administrative Rulemaking Act;

2484 (B) research and development, as the commission may define that phrase in accordance
2485 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2486 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2487 produced from mining;

2488 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2489 mining; or

2490 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2491 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2492 Chapter 3, Utah Administrative Rulemaking Act, that:

2493 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2494 American Industry Classification System of the federal Executive Office of the President,
2495 Office of Management and Budget;

2496 (ii) is located in the state; and

2497 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
2498 replacement parts, or materials in the operation of the web search portal;

2499 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2500 (i) tooling;

2501 (ii) special tooling;

2502 (iii) support equipment;

2503 (iv) special test equipment; or

2504 (v) parts used in the repairs or renovations of tooling or equipment described in
2505 Subsections (15)(a)(i) through (iv); and

2506 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2507 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2508 performance of any aerospace or electronics industry contract with the United States
2509 government or any subcontract under that contract; and
2510 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2511 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2512 by:
2513 (A) a government identification tag placed on the tooling, equipment, or parts; or
2514 (B) listing on a government-approved property record if placing a government
2515 identification tag on the tooling, equipment, or parts is impractical;
2516 (16) sales of newspapers or newspaper subscriptions;
2517 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2518 product transferred electronically traded in as full or part payment of the purchase price, except
2519 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2520 trade-ins are limited to other vehicles only, and the tax is based upon:
2521 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2522 vehicle being traded in; or
2523 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2524 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2525 commission; and
2526 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2527 property or products transferred electronically traded in as full or part payment of the purchase
2528 price:
2529 (i) money;
2530 (ii) electricity;
2531 (iii) water;
2532 (iv) gas; or
2533 (v) steam;
2534 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2535 or a product transferred electronically used or consumed primarily and directly in farming
2536 operations, regardless of whether the tangible personal property or product transferred
2537 electronically;

- 2538 (A) becomes part of real estate; or
- 2539 (B) is installed by a^[-] farmer, contractor, or subcontractor; or
- 2540 [~~(F) farmer;~~]
- 2541 [~~(H) contractor; or~~]
- 2542 [~~(H) subcontractor; or~~]
- 2543 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 2544 product transferred electronically if the tangible personal property or product transferred
- 2545 electronically is exempt under Subsection (18)(a)(i); and
- 2546 (b) amounts paid or charged for the following are subject to the taxes imposed by this
- 2547 chapter:
- 2548 (i) (A) subject to Subsection (18)(b)(i)(B), [~~the following~~] machinery, equipment,
- 2549 materials, or supplies if used in a manner that is incidental to farming^[-]; and
- 2550 [~~(F) machinery;~~]
- 2551 [~~(H) equipment;~~]
- 2552 [~~(H) materials; or~~]
- 2553 [~~(IV) supplies; and~~]
- 2554 (B) tangible personal property that is considered to be used in a manner that is
- 2555 incidental to farming includes:
- 2556 (I) hand tools; or
- 2557 (II) maintenance and janitorial equipment and supplies;
- 2558 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 2559 transferred electronically if the tangible personal property or product transferred electronically
- 2560 is used in an activity other than farming; and
- 2561 (B) tangible personal property or a product transferred electronically that is considered
- 2562 to be used in an activity other than farming includes:
- 2563 (I) office equipment and supplies; or
- 2564 (II) equipment and supplies used in:
- 2565 (Aa) the sale or distribution of farm products;
- 2566 (Bb) research; or
- 2567 (Cc) transportation; or
- 2568 (iii) a vehicle required to be registered by the laws of this state during the period

2569 ending two years after the date of the vehicle's purchase;

2570 (19) sales of hay;

2571 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

2572 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

2573 garden, farm, or other agricultural produce is sold by:

2574 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2575 agricultural produce;

2576 (b) an employee of the producer described in Subsection (20)(a); or

2577 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2578 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2579 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2580 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2581 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2582 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2583 manufacturer, processor, wholesaler, or retailer;

2584 (23) a product stored in the state for resale;

2585 (24) (a) purchases of a product if:

2586 (i) the product is:

2587 (A) purchased outside of this state;

2588 (B) brought into this state:

2589 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2590 (II) by a nonresident person who is not living or working in this state at the time of the

2591 purchase;

2592 (C) used for the personal use or enjoyment of the nonresident person described in

2593 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2594 (D) not used in conducting business in this state; and

2595 (ii) for:

2596 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

2597 the product for a purpose for which the product is designed occurs outside of this state;

2598 (B) a boat, the boat is registered outside of this state; or

2599 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2600 outside of this state;

2601 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2602 (i) a lease or rental of a product; or

2603 (ii) a sale of a vehicle exempt under Subsection (33); and

2604 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2605 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2606 following:

2607 (i) conducting business in this state if that phrase has the same meaning in this

2608 Subsection (24) as in Subsection (63);

2609 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2610 as in Subsection (63); or

2611 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2612 this Subsection (24) as in Subsection (63);

2613 (25) a product purchased for resale in this state, in the regular course of business, either
2614 in its original form or as an ingredient or component part of a manufactured or compounded
2615 product;

2616 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2617 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2618 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2619 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2620 Act;

2621 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2622 person for use in compounding a service taxable under the subsections;

2623 (28) purchases made in accordance with the special supplemental nutrition program for
2624 women, infants, and children established in 42 U.S.C. Sec. 1786;

2625 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2626 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2627 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2628 the President, Office of Management and Budget;

2629 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2630 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- 2631 (a) not registered in this state; and
- 2632 (b) (i) not used in this state; or
- 2633 (ii) used in this state:
- 2634 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2635 time period that does not exceed the longer of:
- 2636 (I) 30 days in any calendar year; or
- 2637 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2638 the borders of this state; or
- 2639 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 2640 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 2641 state;
- 2642 (31) sales of aircraft manufactured in Utah;
- 2643 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2644 providing telecommunications service;
- 2645 (33) sales, leases, or uses of the following:
- 2646 (a) a vehicle by an authorized carrier; or
- 2647 (b) tangible personal property that is installed on a vehicle:
- 2648 (i) sold or leased to or used by an authorized carrier; and
- 2649 (ii) before the vehicle is placed in service for the first time;
- 2650 (34) (a) 45% of the sales price of any new manufactured home; and
- 2651 (b) 100% of the sales price of any used manufactured home;
- 2652 (35) sales relating to schools and fundraising sales;
- 2653 (36) sales or rentals of durable medical equipment if:
- 2654 (a) a person presents a prescription for the durable medical equipment; and
- 2655 (b) the durable medical equipment is used for home use only;
- 2656 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2657 Section [72-11-102](#); and
- 2658 (b) the commission shall by rule determine the method for calculating sales exempt
- 2659 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2660 (38) sales to a ski resort of:
- 2661 (a) snowmaking equipment;

- 2662 (b) ski slope grooming equipment;
- 2663 (c) passenger ropeways as defined in Section 72-11-102; or
- 2664 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2665 described in Subsections (38)(a) through (c);
- 2666 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2667 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2668 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2669 59-12-102;
- 2670 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2671 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2672 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2673 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2674 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2675 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2676 Utah Administrative Rulemaking Act, the commission may make rules:
- 2677 (i) governing the circumstances under which sales are at the same business location;
- 2678 and
- 2679 (ii) establishing the procedures and requirements for a seller to separately account for
- 2680 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2681 assisted amusement devices;
- 2682 (41) (a) sales of photocopies by:
- 2683 (i) a governmental entity; or
- 2684 (ii) an entity within the state system of public education, including:
- 2685 (A) a school; or
- 2686 (B) the State Board of Education; or
- 2687 (b) sales of publications by a governmental entity;
- 2688 (42) amounts paid for admission to an athletic event at an institution of higher
- 2689 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2690 20 U.S.C. Sec. 1681 et seq.;
- 2691 (43) (a) sales made to or by:
- 2692 (i) an area agency on aging; or

- 2693 (ii) a senior citizen center owned by a county, city, or town; or
- 2694 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2695 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2696 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2697 development materials:
 - 2698 (a) actually come into contact with a semiconductor; or
 - 2699 (b) ultimately become incorporated into real property;
- 2700 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2701 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2702 59-12-104.2;
- 2703 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
- 2704 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2705 specified on the temporary sports event registration certificate;
- 2706 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2707 adopted by the Public Service Commission only for purchase of electricity produced from a
- 2708 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 2709 Public Service Commission;
 - 2710 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
 - 2711 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
 - 2712 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
 - 2713 customer would have paid absent the tariff;
- 2714 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2715 prescription for the mobility enhancing equipment;
- 2716 (49) sales of water in a:
 - 2717 (a) pipe;
 - 2718 (b) conduit;
 - 2719 (c) ditch; or
 - 2720 (d) reservoir;
- 2721 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2722 or a foreign nation;
- 2723 (51) (a) sales of an item described in Subsection (51)(b) if the item:

- 2724 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
2725 (ii) has a gold, silver, or platinum content of 50% or more; and
2726 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
2727 (i) ingot;
2728 (ii) bar;
2729 (iii) medallion; or
2730 (iv) decorative coin;
2731 (52) amounts paid on a sale-leaseback transaction;
2732 (53) sales of a prosthetic device:
2733 (a) for use on or in a human; and
2734 (b) (i) for which a prescription is required; or
2735 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2736 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2737 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2738 or equipment is primarily used in the production or postproduction of the following media for
2739 commercial distribution:
2740 (i) a motion picture;
2741 (ii) a television program;
2742 (iii) a movie made for television;
2743 (iv) a music video;
2744 (v) a commercial;
2745 (vi) a documentary; or
2746 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2747 commission by administrative rule made in accordance with Subsection (54)(d); or
2748 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2749 described in Subsection (54)(c) that is used for the production or postproduction of the
2750 following are subject to the taxes imposed by this chapter:
2751 (i) a live musical performance;
2752 (ii) a live news program; or
2753 (iii) a live sporting event;
2754 (c) the following establishments listed in the 1997 North American Industry

2755 Classification System of the federal Executive Office of the President, Office of Management
2756 and Budget, apply to Subsections (54)(a) and (b):

2757 (i) NAICS Code 512110; or

2758 (ii) NAICS Code 51219; and

2759 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2760 commission may by rule:

2761 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2762 or

2763 (ii) define:

2764 (A) "commercial distribution";

2765 (B) "live musical performance";

2766 (C) "live news program"; or

2767 (D) "live sporting event";

2768 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2769 on or before June 30, 2027, of tangible personal property that:

2770 (i) is leased or purchased for or by a facility that:

2771 (A) is an alternative energy electricity production facility;

2772 (B) is located in the state; and

2773 (C) (I) becomes operational on or after July 1, 2004; or

2774 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2775 2004, as a result of the use of the tangible personal property;

2776 (ii) has an economic life of five or more years; and

2777 (iii) is used to make the facility or the increase in capacity of the facility described in

2778 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

2779 transmission grid including:

2780 (A) a wind turbine;

2781 (B) generating equipment;

2782 (C) a control and monitoring system;

2783 (D) a power line;

2784 (E) substation equipment;

2785 (F) lighting;

2786 (G) fencing;
2787 (H) pipes; or
2788 (I) other equipment used for locating a power line or pole; and
2789 (b) this Subsection (55) does not apply to:
2790 (i) tangible personal property used in construction of:
2791 (A) a new alternative energy electricity production facility; or
2792 (B) the increase in the capacity of an alternative energy electricity production facility;
2793 (ii) contracted services required for construction and routine maintenance activities;
2794 and
2795 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2796 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2797 acquired after:
2798 (A) the alternative energy electricity production facility described in Subsection
2799 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
2800 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2801 in Subsection (55)(a)(iii);
2802 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2803 on or before June 30, 2027, of tangible personal property that:
2804 (i) is leased or purchased for or by a facility that:
2805 (A) is a waste energy production facility;
2806 (B) is located in the state; and
2807 (C) (I) becomes operational on or after July 1, 2004; or
2808 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2809 2004, as a result of the use of the tangible personal property;
2810 (ii) has an economic life of five or more years; and
2811 (iii) is used to make the facility or the increase in capacity of the facility described in
2812 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2813 transmission grid including:
2814 (A) generating equipment;
2815 (B) a control and monitoring system;
2816 (C) a power line;

- 2817 (D) substation equipment;
- 2818 (E) lighting;
- 2819 (F) fencing;
- 2820 (G) pipes; or
- 2821 (H) other equipment used for locating a power line or pole; and
- 2822 (b) this Subsection (56) does not apply to:
 - 2823 (i) tangible personal property used in construction of:
 - 2824 (A) a new waste energy facility; or
 - 2825 (B) the increase in the capacity of a waste energy facility;
 - 2826 (ii) contracted services required for construction and routine maintenance activities;
 - 2827 and
 - 2828 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 2829 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 2830 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 2831 described in Subsection (56)(a)(iii); or
 - 2832 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 2833 in Subsection (56)(a)(iii);
 - 2834 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
 - 2835 or before June 30, 2027, of tangible personal property that:
 - 2836 (i) is leased or purchased for or by a facility that:
 - 2837 (A) is located in the state;
 - 2838 (B) produces fuel from alternative energy, including[-(F)] methanol[;] or [(F)] ethanol;
 - 2839 and
 - 2840 (C) (I) becomes operational on or after July 1, 2004; or
 - 2841 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 2842 a result of the installation of the tangible personal property;
 - 2843 (ii) has an economic life of five or more years; and
 - 2844 (iii) is installed on the facility described in Subsection (57)(a)(i);
 - 2845 (b) this Subsection (57) does not apply to:
 - 2846 (i) tangible personal property used in construction of:
 - 2847 (A) a new facility described in Subsection (57)(a)(i); or

2848 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 2849 (ii) contracted services required for construction and routine maintenance activities;
 2850 and
 2851 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 2852 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
 2853 (A) the facility described in Subsection (57)(a)(i) is operational; or
 2854 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
 2855 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a
 2856 product transferred electronically to a person within this state if that tangible personal property
 2857 or product transferred electronically is subsequently shipped outside the state and incorporated
 2858 pursuant to contract into and becomes a part of real property located outside of this state; and
 2859 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
 2860 state or political entity to which the tangible personal property is shipped imposes a sales, use,
 2861 gross receipts, or other similar transaction excise tax on the transaction against which the other
 2862 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~
 2863 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
 2864 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
 2865 ~~refund:]~~
 2866 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
 2867 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
 2868 ~~which the sale is made;]~~
 2869 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
 2870 ~~sale prior to filing for the refund;]~~
 2871 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~
 2872 [~~(v) in accordance with Section 59-1-1410; and]~~
 2873 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
 2874 ~~if the person files for the refund on or before June 30, 2011;]~~
 2875 (59) purchases:
 2876 (a) of one or more of the following items in printed or electronic format:
 2877 (i) a list containing information that includes one or more [~~(A)~~] names[;] or [~~(B)~~]
 2878 addresses; or

2879 (ii) a database containing information that includes one or more[~~:(A)~~] names[~~;~~] or
2880 [~~(B)~~] addresses; and
2881 (b) used to send direct mail;
2882 (60) redemptions or repurchases of a product by a person if that product was:
2883 (a) delivered to a pawnbroker as part of a pawn transaction; and
2884 (b) redeemed or repurchased within the time period established in a written agreement
2885 between the person and the pawnbroker for redeeming or repurchasing the product;
2886 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
2887 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2888 and
2889 (ii) has a useful economic life of one or more years; and
2890 (b) the following apply to Subsection (61)(a):
2891 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2892 (ii) telecommunications equipment, machinery, or software required for 911 service;
2893 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2894 (iv) telecommunications switching or routing equipment, machinery, or software; or
2895 (v) telecommunications transmission equipment, machinery, or software;
2896 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2897 personal property or a product transferred electronically that are used in the research and
2898 development of alternative energy technology; and
2899 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2900 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2901 purchases of tangible personal property or a product transferred electronically that are used in
2902 the research and development of alternative energy technology;
2903 (63) (a) purchases of tangible personal property or a product transferred electronically
2904 if:
2905 (i) the tangible personal property or product transferred electronically is:
2906 (A) purchased outside of this state;
2907 (B) brought into this state at any time after the purchase described in Subsection
2908 (63)(a)(i)(A); and
2909 (C) used in conducting business in this state; and

2910 (ii) for:

2911 (A) tangible personal property or a product transferred electronically other than the

2912 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

2913 for a purpose for which the property is designed occurs outside of this state; or

2914 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2915 outside of this state;

2916 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2917 (i) a lease or rental of tangible personal property or a product transferred electronically;

2918 or

2919 (ii) a sale of a vehicle exempt under Subsection (33); and

2920 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2921 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2922 following:

2923 (i) conducting business in this state if that phrase has the same meaning in this

2924 Subsection (63) as in Subsection (24);

2925 (ii) the first use of tangible personal property or a product transferred electronically if

2926 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2927 (iii) a purpose for which tangible personal property or a product transferred

2928 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2929 Subsection (24);

2930 (64) sales of disposable home medical equipment or supplies if:

2931 (a) a person presents a prescription for the disposable home medical equipment or

2932 supplies;

2933 (b) the disposable home medical equipment or supplies are used exclusively by the

2934 person to whom the prescription described in Subsection (64)(a) is issued; and

2935 (c) the disposable home medical equipment and supplies are listed as eligible for

2936 payment under:

2937 (i) Title XVIII, federal Social Security Act; or

2938 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2939 (65) sales:

2940 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

2941 District Act; or
2942 (b) of tangible personal property to a subcontractor of a public transit district, if the
2943 tangible personal property is:
2944 (i) clearly identified; and
2945 (ii) installed or converted to real property owned by the public transit district;
2946 (66) sales of construction materials:
2947 (a) purchased on or after July 1, 2010;
2948 (b) purchased by, on behalf of, or for the benefit of an international airport:
2949 (i) located within a county of the first class; and
2950 (ii) that has a United States customs office on its premises; and
2951 (c) if the construction materials are:
2952 (i) clearly identified;
2953 (ii) segregated; and
2954 (iii) installed or converted to real property:
2955 (A) owned or operated by the international airport described in Subsection (66)(b); and
2956 (B) located at the international airport described in Subsection (66)(b);
2957 (67) sales of construction materials:
2958 (a) purchased on or after July 1, 2008;
2959 (b) purchased by, on behalf of, or for the benefit of a new airport:
2960 (i) located within a county of the second class; and
2961 (ii) that is owned or operated by a city in which an airline as defined in Section
2962 [59-2-102](#) is headquartered; and
2963 (c) if the construction materials are:
2964 (i) clearly identified;
2965 (ii) segregated; and
2966 (iii) installed or converted to real property:
2967 (A) owned or operated by the new airport described in Subsection (67)(b);
2968 (B) located at the new airport described in Subsection (67)(b); and
2969 (C) as part of the construction of the new airport described in Subsection (67)(b);
2970 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
2971 (69) purchases and sales described in Section [63H-4-111](#);

2972 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2973 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2974 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2975 lists a state or country other than this state as the location of registry of the fixed wing turbine
2976 powered aircraft; or

2977 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2978 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2979 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2980 lists a state or country other than this state as the location of registry of the fixed wing turbine
2981 powered aircraft;

2982 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2983 (a) to a person admitted to an institution of higher education; and

2984 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2985 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2986 textbook for a higher education course;

2987 (72) a license fee or tax a municipality imposes in accordance with Subsection
2988 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2989 level of municipal services;

2990 (73) amounts paid or charged for construction materials used in the construction of a
2991 new or expanding life science research and development facility in the state, if the construction
2992 materials are:

2993 (a) clearly identified;

2994 (b) segregated; and

2995 (c) installed or converted to real property;

2996 (74) amounts paid or charged for:

2997 (a) a purchase or lease of machinery and equipment that:

2998 (i) are used in performing qualified research:

2999 (A) as defined in Section 41(d), Internal Revenue Code; and

3000 (B) in the state; and

3001 (ii) have an economic life of three or more years; and

3002 (b) normal operating repair or replacement parts:

3003 (i) for the machinery and equipment described in Subsection (74)(a); and
3004 (ii) that have an economic life of three or more years;
3005 (75) a sale or lease of tangible personal property used in the preparation of prepared
3006 food if:
3007 (a) for a sale:
3008 (i) the ownership of the seller and the ownership of the purchaser are identical; and
3009 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
3010 tangible personal property prior to making the sale; or
3011 (b) for a lease:
3012 (i) the ownership of the lessor and the ownership of the lessee are identical; and
3013 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
3014 personal property prior to making the lease;
3015 (76) (a) purchases of machinery or equipment if:
3016 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
3017 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
3018 System of the federal Executive Office of the President, Office of Management and Budget;
3019 (ii) the machinery or equipment:
3020 (A) has an economic life of three or more years; and
3021 (B) is used by one or more persons who pay admission or user fees described in
3022 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
3023 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
3024 (A) amounts paid or charged as admission or user fees described in Subsection
3025 59-12-103(1)(f); and
3026 (B) subject to taxation under this chapter; and
3027 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3028 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
3029 previous calendar quarter is:
3030 (i) amounts paid or charged as admission or user fees described in Subsection
3031 59-12-103(1)(f); and
3032 (ii) subject to taxation under this chapter;
3033 (77) purchases of a short-term lodging consumable by a business that provides

- 3034 accommodations and services described in Subsection 59-12-103(1)(i);
- 3035 (78) amounts paid or charged to access a database:
- 3036 (a) if the primary purpose for accessing the database is to view or retrieve information
- 3037 from the database; and
- 3038 (b) not including amounts paid or charged for a:
- 3039 (i) digital audiowork;
- 3040 (ii) digital audio-visual work; or
- 3041 (iii) digital book;
- 3042 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 3043 payment service, of:
- 3044 (a) machinery and equipment that:
- 3045 (i) are used in the operation of the electronic financial payment service; and
- 3046 (ii) have an economic life of three or more years; and
- 3047 (b) normal operating repair or replacement parts that:
- 3048 (i) are used in the operation of the electronic financial payment service; and
- 3049 (ii) have an economic life of three or more years;
- 3050 (80) [~~beginning on April 1, 2013;~~] sales of a fuel cell as defined in Section 54-15-102;
- 3051 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 3052 product transferred electronically if the tangible personal property or product transferred
- 3053 electronically:
- 3054 (a) is stored, used, or consumed in the state; and
- 3055 (b) is temporarily brought into the state from another state:
- 3056 (i) during a disaster period as defined in Section 53-2a-1202;
- 3057 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 3058 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 3059 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 3060 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 3061 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 3062 Recreation Program;
- 3063 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 3064 [~~(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a~~]

3065 ~~purchase or lease made by a drilling equipment manufacturer of machinery, equipment,~~
3066 ~~materials, or normal operating repair or replacement parts:]~~
3067 ~~[(i) that are used or consumed exclusively in the drilling equipment manufacturer's~~
3068 ~~manufacturing process; and]~~
3069 ~~[(ii) except for office:]~~
3070 ~~[(A) equipment; or]~~
3071 ~~[(B) supplies; and]~~
3072 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~
3073 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~
3074 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~
3075 ~~[(ii) in accordance with Section 59-1-1410;]~~
3076 ~~[(85)] (84) amounts paid or charged for a purchase or lease made by a qualifying~~
3077 ~~enterprise data center of machinery, equipment, or normal operating repair or replacement~~
3078 ~~parts, if the machinery, equipment, or normal operating repair or replacement parts:~~
3079 ~~(a) are used in the operation of the establishment; and~~
3080 ~~(b) have an economic life of one or more years; [and]~~
3081 ~~[(86) amounts paid or charged for a purchase or lease of machinery, equipment, or~~
3082 ~~normal operating repair or replacement parts by a manufacturing facility that:]~~
3083 ~~[(a) is an establishment, as the commission defines that term in accordance with Title~~
3084 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;]~~
3085 ~~[(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002~~
3086 ~~North American Industry Classification System of the federal Executive Office of the~~
3087 ~~President, Office of Management and Budget;]~~
3088 ~~[(c) is located in the state; and]~~
3089 ~~[(d) uses the machinery, equipment, or normal operating repair or replacement parts in~~
3090 ~~the manufacturing process to manufacture an item sold as tangible personal property, as the~~
3091 ~~commission may define that phrase in accordance with Title 63G, Chapter 3, Utah~~
3092 ~~Administrative Rulemaking Act;]~~
3093 ~~[(87) amounts paid or charged for a purchase or lease of equipment or normal~~
3094 ~~operating repair or replacement parts with an economic life of less than three years by a~~
3095 ~~manufacturing facility that:]~~

3096 ~~[(a) is an establishment, as the commission defines that term in accordance with Title~~
3097 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;]~~

3098 ~~[(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002~~
3099 ~~North American Industry Classification System of the federal Executive Office of the~~
3100 ~~President, Office of Management and Budget;]~~

3101 ~~[(c) is located in the state; and]~~

3102 ~~[(d) uses the equipment or normal operating repair or replacement parts to manufacture~~
3103 ~~hydrogen;]~~

3104 ~~[(88)] (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of~~
3105 ~~a vehicle that includes cleaning or washing of the interior of the vehicle; and~~

3106 ~~[(89)] (86) amounts paid or charged for a purchase or lease of machinery, equipment,~~
3107 ~~normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or~~
3108 ~~supplies used or consumed:~~

3109 ~~(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined~~
3110 ~~in Section 63M-4-701 located in the state;~~

3111 ~~(b) if the machinery, equipment, normal operating repair or replacement parts,~~
3112 ~~catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:~~

3113 ~~(i) the production process to produce gasoline or diesel fuel, or at which blendstock is~~
3114 ~~added to gasoline or diesel fuel;~~

3115 ~~(ii) research and development;~~

3116 ~~(iii) transporting, storing, or managing raw materials, work in process, finished~~
3117 ~~products, and waste materials produced from refining gasoline or diesel fuel, or adding~~
3118 ~~blendstock to gasoline or diesel fuel;~~

3119 ~~(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in~~
3120 ~~refining; or~~

3121 ~~(v) preventing, controlling, or reducing pollutants from refining; and~~

3122 ~~(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office~~
3123 ~~of Energy Development under Subsection 63M-4-702(2).~~

3124 Section 13. Section 59-12-104.5 is amended to read:

3125 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
3126 **taxes.**

3127 The Revenue and Taxation Interim Committee shall:

3128 (1) review Subsection [59-12-104](#)(28) before October 1 of the year after the year in
3129 which Congress permits a state to participate in the special supplemental nutrition program
3130 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
3131 purchases of food under that program; and

3132 (2) review Subsection [59-12-104](#)(21) before October 1 of the year after the year in
3133 which Congress permits a state to participate in the SNAP as defined in Section [35A-1-102](#),
3134 even if state or local sales taxes are collected within the state on purchases of food under that
3135 program[~~and~~].

3136 [~~(3) on or before November 30;~~]

3137 [~~(a) require the Governor's Office of Economic Development to provide the report
3138 described in Section [63N-1-302](#)(2);]~~

3139 [~~(b) review for each exemption described in Subsection [59-12-104](#)(86) and (87):]~~

3140 [~~(i) the cost of the exemption;~~]

3141 [~~(ii) the purpose and effectiveness of the exemption; and]~~

3142 [~~(iii) the extent to which the state benefits from the exemption; and]~~

3143 [~~(c) make recommendations concerning whether the exemptions described in
3144 Subsections [59-12-104](#)(86) and (87) should be continued, modified, or repealed:]~~

3145 Section 14. Section **63I-2-259** is amended to read:

3146 **63I-2-259. Repeal dates -- Title 59.**

3147 [~~Subsection [59-2-1007](#)(14) is repealed on December 31, 2018.~~]

3148 (1) Section [59-7-614.5](#) is repealed on December 31, 2021.

3149 (2) Section [59-7-614.10](#) is repealed on December 31, 2021.

3150 (3) Section [59-10-1037](#) is repealed on December 31, 2021.

3151 (4) Section [59-10-1108](#) is repealed on December 31, 2021.

3152 Section 15. Section **63I-2-263** is amended to read:

3153 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

3154 [~~(1) Section [63A-5-227](#) is repealed on January 1, 2018.~~]

3155 [~~(2)~~] (1) Section [63H-7a-303](#) is repealed on July 1, 2022.

3156 [~~(3)~~] (2) On July 1, 2019:

3157 (a) in Subsection [63J-1-206](#)(3)(c)(i), the language that states "(i) Except as provided in

3158 Subsection (3)(c)(ii)" is repealed; and

3159 (b) Subsection [63J-1-206\(3\)\(c\)\(ii\)](#) is repealed.

3160 (3) Section [63N-2-213](#) is repealed on December 31, 2021.

3161 (4) Subsection [63N-3-109\(2\)\(f\)\(i\)\(B\)](#) is repealed July 1, 2020.

3162 (5) Section [63N-3-110](#) is repealed July 1, 2020.

3163 Section 16. Section [63M-4-702](#) is amended to read:

3164 **[63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development](#)**
3165 **certification of sales and use tax exemption eligibility.**

3166 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
3167 tax exemption under Subsection [59-12-104\[\(89\)\]\(86\)](#) shall annually report to the office
3168 whether the refiner's facility that is located within the state will have an average gasoline sulfur
3169 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
3170 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
3171 80.1616.

3172 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
3173 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
3174 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

3175 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
3176 eligible for the sales and use tax exemption under Subsection [59-12-104\[\(89\)\]\(86\)](#):

3177 (i) on a form provided by the State Tax Commission that shall be retained by the
3178 refiner claiming the sales and use tax exemption under Subsection [59-12-104\[\(89\)\]\(86\)](#);

3179 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
3180 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
3181 year; and

3182 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
3183 [59-12-104\[\(89\)\]\(86\)](#).

3184 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
3185 annually.

3186 (c) The office:

3187 (i) shall accept a copy of a report submitted by a refiner to the Environmental
3188 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average

3189 gasoline sulfur level; or

3190 (ii) may establish another reporting mechanism through rules made under Subsection
3191 (3).

3192 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3193 office may make rules to implement this section.

3194 Section 17. Section **63N-2-104** is amended to read:

3195 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**
3196 **of tax credit.**

3197 (1) The office, with advice from the board, may create an economic development zone
3198 in the state if the following requirements are satisfied:

3199 (a) the area is zoned commercial, industrial, manufacturing, business park, research
3200 park, or other appropriate business related use in a community-approved master plan;

3201 (b) the request to create a development zone has first been approved by an appropriate
3202 local government entity; and

3203 (c) local incentives have been or will be committed to be provided within the area.

3204 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3205 the office shall make rules establishing the requirements for a business entity or local
3206 government entity to qualify for a tax credit for a new commercial project in a development
3207 zone under this part.

3208 (b) The office shall ensure that the requirements described in Subsection (2)(a) include
3209 the following:

3210 (i) the new commercial project is within the development zone;

3211 (ii) the new commercial project includes direct investment within the geographic
3212 boundaries of the development zone;

3213 (iii) the new commercial project brings new incremental jobs to Utah;

3214 (iv) the new commercial project includes the creation of high paying jobs in the state,
3215 significant capital investment in the state, or significant purchases from vendors, contractors, or
3216 service providers in the state, or a combination of these three economic factors;

3217 (v) the new commercial project generates new state revenues; and

3218 (vi) a business entity, a local government entity, or a community reinvestment agency
3219 to which a local government entity assigns a tax credit under this section meets the

3220 requirements of Section [63N-2-105](#).

3221 (3) (a) ~~[The]~~ Except as provided in Subsection (3)(d), the office, after consultation with
3222 the board, may enter into a written agreement with a business entity or local government entity
3223 authorizing a tax credit to the business entity or local government entity if the business entity or
3224 local government entity meets the requirements described in this section.

3225 (b) (i) With respect to a new commercial project, the office may authorize a tax credit
3226 to a business entity or a local government entity, but not both.

3227 (ii) In determining whether to authorize a tax credit with respect to a new commercial
3228 project to a business entity or a local government entity, the office shall authorize the tax credit
3229 in a manner that the office determines will result in providing the most effective incentive for
3230 the new commercial project.

3231 (c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or
3232 commit to authorize a tax credit that exceeds:

3233 (A) 50% of the new state revenues from the new commercial project in any given year;
3234 or

3235 (B) 30% of the new state revenues from the new commercial project over the lesser of
3236 the life of a new commercial project or 20 years.

3237 (ii) If the eligible business entity makes capital expenditures in the state of
3238 \$1,500,000,000 or more associated with a new commercial project, the office may:

3239 (A) authorize or commit to authorize a tax credit not exceeding 60% of new state
3240 revenues over the lesser of the life of the project or 20 years, if the other requirements of this
3241 part are met;

3242 (B) establish the year that state revenues and incremental jobs baseline data are
3243 measured for purposes of an incentive under this Subsection (3)(c)(ii); and

3244 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive
3245 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements
3246 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to
3247 authorize a tax credit of more than 60% of new state revenues in any one year.

3248 (d) On or after January 1, 2019, the office may not:

3249 (i) enter into a new written agreement under Subsection (3)(a) with a business entity or
3250 local government entity; or

3251 (ii) modify an existing written agreement described in Subsection (3)(a) to increase the
3252 maximum amount of tax credit a business entity or local government entity may claim or to
3253 extend the length of time a business entity or local government entity may claim a tax credit.

3254 ~~(d)~~ (e) (i) A local government entity may by resolution assign a tax credit authorized
3255 by the office to a community reinvestment agency.

3256 (ii) The local government entity shall provide a copy of the resolution described in
3257 Subsection (3)~~(d)~~(e)(i) to the office.

3258 (iii) If a local government entity assigns a tax credit to a community reinvestment
3259 agency, the written agreement described in Subsection (3)(a) shall:

3260 (A) be between the office, the local government entity, and the community
3261 reinvestment agency;

3262 (B) establish the obligations of the local government entity and the community
3263 reinvestment agency; and

3264 (C) establish the extent to which any of the local government entity's obligations are
3265 transferred to the community reinvestment agency.

3266 (iv) If a local government entity assigns a tax credit to a community reinvestment
3267 agency:

3268 (A) the community reinvestment agency shall retain records as described in Subsection
3269 (4)(d); and

3270 (B) a tax credit certificate issued in accordance with Section ~~[63N-2-106]~~ [63N-2-105](#)
3271 shall list the community reinvestment agency as the named applicant.

3272 (4) The office shall ensure that the written agreement described in Subsection (3):

3273 (a) specifies the requirements that the business entity or local government entity shall
3274 meet to qualify for a tax credit under this part;

3275 (b) specifies the maximum amount of tax credit that the business entity or local
3276 government entity may be authorized for a taxable year and over the life of the new commercial
3277 project;

3278 (c) establishes the length of time the business entity or local government entity may
3279 claim a tax credit;

3280 (d) requires the business entity or local government entity to retain records supporting a
3281 claim for a tax credit for at least four years after the business entity or local government entity

3282 claims a tax credit under this part; and

3283 (e) requires the business entity or local government entity to submit to audits for
3284 verification of the tax credit claimed.

3285 Section 18. Section **63N-2-106** is amended to read:

3286 **63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of**
3287 **tax credits.**

3288 (1) The office shall include the following information in the annual written report
3289 described in Section [63N-1-301](#):

3290 (a) the office's success in attracting new commercial projects to development zones
3291 under this part and the corresponding increase in new incremental jobs;

3292 (b) how many new incremental jobs and high paying jobs are employees of a company
3293 that received tax credits under this part, including the number of employees who work for a
3294 third-party rather than directly for a company, receiving the tax credits under this part;

3295 (c) the estimated amount of tax credit commitments made by the office and the period
3296 of time over which tax credits will be paid;

3297 (d) the economic impact on the state from new state revenues and the provision of tax
3298 credits under this part;

3299 (e) the estimated costs and economic benefits of the tax credit commitments made by
3300 the office;

3301 (f) the actual costs and economic benefits of the tax credit commitments made by the
3302 office; and

3303 (g) tax credit commitments made by the office, with the associated calculation.

3304 (2) Each month, the office shall post on its website and on a state website:

3305 (a) the new tax credit commitments made by the office during the previous month; and

3306 (b) the estimated costs and economic benefits of those tax credit commitments.

3307 (3) (a) On or before November 1, 2014, and every three years after November 1, 2014,
3308 the office shall:

3309 (i) conduct an audit of the tax credits allowed under Section [63N-2-105](#);

3310 (ii) study the tax credits allowed under Section [63N-2-105](#); and

3311 (iii) make recommendations concerning whether the tax credits should be continued,
3312 modified, or repealed.

3313 (b) The audit shall include an evaluation of:
3314 (i) the cost of the tax credits;
3315 (ii) the purposes and effectiveness of the tax credits;
3316 (iii) the extent to which the state benefits from the tax credits; and
3317 (iv) the state's return on investment under this part measured by new state revenues,
3318 compared with the costs of tax credits provided and GOED's expenses in administering this
3319 part.

3320 (c) The office shall provide the results of the audit described in this Subsection (3)[
3321 (†)] in the written annual report described in Subsection (1)[~~and~~].

3322 [~~(ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.~~]

3323 Section 19. Section **63N-2-213** is amended to read:

3324 **63N-2-213. State tax credits.**

3325 (1) The office shall certify a business entity's eligibility for a tax credit described in this
3326 section.

3327 (2) A business entity seeking to receive a tax credit as provided in this section shall
3328 provide the office with:

3329 (a) an application for a tax credit certificate in a form approved by the office, including
3330 a certification, by an officer of the business entity, of a signature on the application; and

3331 (b) documentation that demonstrates the business entity has met the requirements to
3332 receive the tax credit.

3333 (3) If, after review of an application and documentation provided by a business entity
3334 as described in Subsection (2), the office determines that the application and documentation are
3335 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

3336 (a) deny the tax credit; or

3337 (b) inform the business entity that the application or documentation was inadequate
3338 and ask the business entity to submit additional documentation.

3339 (4) If, after review of an application and documentation provided by a business entity
3340 as described in Subsection (2), the office determines that the application and documentation
3341 provide reasonable justification for authorizing a tax credit, the office shall:

3342 (a) determine the amount of the tax credit to be granted to the business entity;

3343 (b) issue a tax credit certificate to the business entity; and

3344 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

3345 (5) A business entity may not claim a tax credit [~~under~~] described in this section unless
3346 the business entity has a tax credit certificate issued by the office.

3347 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3348 office shall make rules describing:

3349 (a) the form and content of an application for a tax credit certificate under this section;

3350 (b) the documentation requirements for a business entity to receive a tax credit
3351 certificate under this section; and

3352 (c) administration of the program, including relevant timelines and deadlines.

3353 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
3354 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
3355 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
3356 Tax Act, are applicable in an enterprise zone:

3357 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
3358 employee position created within the enterprise zone;

3359 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
3360 created within the enterprise zone pays at least 125% of:

3361 (i) the county average monthly nonagricultural payroll wage for the respective industry
3362 as determined by the Department of Workforce Services; or

3363 (ii) if the county average monthly nonagricultural payroll wage is not available for the
3364 respective industry, the total average monthly nonagricultural payroll wage in the respective
3365 county where the enterprise zone is located;

3366 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
3367 position created within the enterprise zone is in a business entity that adds value to agricultural
3368 commodities through manufacturing or processing;

3369 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
3370 new full-time employee position created within the enterprise zone that is filled by an
3371 employee who is insured under an employer-sponsored health insurance program if the
3372 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

3373 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
3374 enterprise zone that has been vacant for two years or more; and

3375 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
3376 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
3377 property.

3378 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
3379 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30
3380 full-time employee positions in a taxable year.

3381 (b) A business entity that received a tax credit for one or more new full-time employee
3382 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
3383 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
3384 through (d) if:

3385 (i) the business entity has created a new full-time position within the enterprise zone;
3386 and

3387 (ii) the total number of full-time employee positions at the business entity at any point
3388 during the tax year for which the tax credit is being claimed is greater than the highest number
3389 of full-time employee positions that existed at the business entity in the previous three taxable
3390 years.

3391 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
3392 through (d).

3393 (9) (a) Except as provided in Subsection (9)(b), a business entity may only claim a tax
3394 credit described in this section for a taxable year that begins on or before December 31, 2018.

3395 ~~[(9)]~~ (b) If the amount of a tax credit [under] described in this section exceeds a
3396 business entity's tax liability under this chapter for a taxable year, the business entity may carry
3397 forward the amount of the tax credit exceeding the liability for a period that does not exceed
3398 the next three taxable years.

3399 ~~(10) [Tax credits]~~ A business entity primarily engaged in retail trade or a public
3400 utilities business may not claim a tax credit under Subsections (7)(a) through (f) ~~[may not be~~
3401 ~~claimed by a business entity primarily engaged in retail trade or by a public utilities business].~~

3402 (11) A business entity that has no employees:

3403 (a) may not claim tax credits under Subsections (7)(a) through (d); and

3404 (b) may claim tax credits under Subsections (7)(e) through (f).

3405 (12) A business entity may not claim or carry forward a tax credit available under this

3406 part for a taxable year during which the business entity has claimed the targeted business
 3407 income tax credit available under Section 63N-2-305.

3408 ~~[(13)(a) On or before November 30, 2018, and every three years after 2018, the~~
 3409 ~~Revenue and Taxation Interim Committee shall review the tax credits provided by this section~~
 3410 ~~and make recommendations concerning whether the tax credits should be continued, modified,~~
 3411 ~~or repealed.]~~

3412 ~~[(b) In conducting the review required by Subsection (13)(a), the Revenue and~~
 3413 ~~Taxation Interim Committee shall:]~~

3414 ~~[(i) schedule time on at least one committee agenda to conduct the review;]~~

3415 ~~[(ii) invite state agencies, individuals, and organizations concerned with the credits~~
 3416 ~~under review to provide testimony;]~~

3417 ~~[(iii) ensure that the recommendations described in this section include an evaluation~~
 3418 ~~of:]~~

3419 ~~[(A) the cost of the tax credits to the state;]~~

3420 ~~[(B) the purpose and effectiveness of the tax credits; and]~~

3421 ~~[(C) the extent to which the state benefits from the tax credits; and]~~

3422 ~~[(iv) undertake other review efforts as determined by the chairs of the Revenue and~~
 3423 ~~Taxation Interim Committee.]~~

3424 Section 20. Section 63N-8-103 is amended to read:

3425 **63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives --**
 3426 **Refundable tax credit incentives.**

3427 (1) (a) There is created within the General Fund a restricted account known as the
 3428 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
 3429 for state-approved productions by a motion picture company.

3430 (b) All interest generated from investment of money in the restricted account shall be
 3431 deposited in the restricted account.

3432 (c) The restricted account shall consist of an annual appropriation by the Legislature.

3433 (d) The office shall:

3434 (i) with the advice of the board, administer the restricted account; and

3435 (ii) make payments from the restricted account as required under this section.

3436 (e) The cost of administering the restricted account shall be paid from money in the

3437 restricted account.

3438 (2) (a) A motion picture company or digital media company seeking disbursement of
3439 an incentive allowed under an agreement with the office shall follow the procedures and
3440 requirements of this Subsection (2).

3441 (b) The motion picture company or digital media company shall provide the office with
3442 a report identifying and documenting the dollars left in the state and new state revenues
3443 generated by the motion picture company or digital media company for its state-approved
3444 production, including any related tax returns by the motion picture company, payroll company,
3445 digital media company, or loan-out corporation under Subsection (2)(d).

3446 (c) For a motion picture company, an independent certified public accountant shall:

3447 (i) review the report submitted by the motion picture company; and

3448 (ii) attest to the accuracy and validity of the report, including the amount of dollars left
3449 in the state.

3450 (d) The motion picture company, digital media company, payroll company, or loan-out
3451 corporation shall provide the office with a document that expressly directs and authorizes the
3452 State Tax Commission to disclose the entity's tax returns and other information concerning the
3453 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
3454 6103, Internal Revenue Code, to the office.

3455 (e) The office shall submit the document described in Subsection (2)(d) to the State
3456 Tax Commission.

3457 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
3458 Commission shall provide the office with the information requested by the office that the
3459 motion picture company, digital media company, payroll company, or loan-out corporation
3460 directed or authorized the State Tax Commission to provide to the office in the document
3461 described in Subsection (2)(d).

3462 (g) Subject to Subsection (3), for a motion picture company the office shall:

3463 (i) review the report from the motion picture company described in Subsection (2)(b)
3464 and verify that [it] the report was reviewed by an independent certified public accountant as
3465 described in Subsection (2)(c); and

3466 (ii) based upon the certified public accountant's attestation under Subsection (2)(c),
3467 determine the amount of the incentive that the motion picture company is entitled to under its

3468 agreement with the office.

3469 (h) Subject to Subsection (3), for a digital media company, the office shall:

3470 (i) ensure the digital media project results in new state revenue; and

3471 (ii) based upon review of new state revenue, determine the amount of the incentive that
3472 a digital media company is entitled to under its agreement with the office.

3473 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
3474 shall pay the incentive from the restricted account to the motion picture company,
3475 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

3476 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
3477 59-10-1108, the office shall:

3478 (i) issue a tax credit certificate to the motion picture company or digital media
3479 company; and

3480 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

3481 (k) A motion picture company or digital media company may not claim a motion
3482 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
3483 or digital media company has received a tax credit certificate for the claim issued by the office
3484 under Subsection (2)(j)(i).

3485 (l) A motion picture company or digital media company may claim a motion picture
3486 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

3487 (m) A motion picture company or digital media company that claims a tax credit under
3488 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
3489 accordance with Subsection 63N-8-104(6).

3490 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit
3491 certificates under this part in a fiscal year.

3492 (b) [Hf] (i) Subject to Subsection (3)(b)(ii), if the office does not issue tax credit
3493 certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), it may carry
3494 over that amount for issuance in subsequent fiscal years.

3495 (ii) A motion picture company or digital media company may use a tax credit
3496 certificate issued in a fiscal year beginning on or after July 1, 2018, to claim a tax credit under
3497 Section 59-7-614.5 or 59-10-1108 only for a taxable year that begins on or before December
3498 31, 2018.

3499 Section 21. **Repealer.**
3500 This bill repeals:
3501 Section [59-12-104.7](#), **Reporting by purchaser of certain sales and use tax exempt**
3502 **purchases.**
3503 Section [63N-1-302](#), **Reporting of certain sales and use tax exempt purchases.**
3504 Section 22. **Retrospective operation and effective date.**
3505 (1) Except as provided in Subsections (2) through (4), this bill has retrospective
3506 operation for a taxable year beginning on or after January 1, 2018.
3507 (2) The amendments to Sections [59-7-159](#), [59-10-137](#), [63I-2-259](#), [63I-2-263](#),
3508 [63N-2-104](#), and [63N-2-106](#) take effect on May 8, 2018.
3509 (3) The amendments to Sections [59-7-612](#) and [59-10-1012](#) take effect for a taxable
3510 year beginning on or after January 1, 2019.
3511 (4) The amendments to Sections [59-12-102](#), [59-12-104](#), [59-12-104.5](#), and [63M-4-702](#)
3512 and the repeal of Sections [59-12-104.7](#) and [63N-1-302](#) take effect on January 1, 2019.

Legislative Review Note
Office of Legislative Research and General Counsel